S. HRG. 100-634

MILITARY LAND WITHDRAWALS IN THE STATES OF NEVADA AND CALIFORNIA

HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

OF THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

S. 1508

TO WITHDRAW AND RESERVE FOR THE DEPARTMENT OF THE AIR FORCE CERTAIN FEDERAL LANDS WITHIN LINCOLN COUNTY, NEVADA, AND FOR OTHER PURPOSES

S. 1570

TO WITHDRAW AND RESERVE FOR THE DEPARTMENT OF THE NAVY CERTAIN FEDERAL LANDS WITHIN INYO, KERN, SAN BERNARDINO, AND IMPERIAL COUNTIES, CALIFORNIA, AND FOR OTHER PURPOSES

H.R. 1548

TO WITHDRAW CERTAIN FEDERAL LANDS IN THE STATE OF CALIFORNIA FOR MILITARY PURPOSES, AND FOR OTHER PURPOSES

MARCH 17, 1988

Printed for the use of the
Committee on Energy and Natural Resources

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MILITARY LAND WITHDRAWALS IN THE STATES OF NEVADA AND CALIFORNIA

MARCH 17, 1988

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS,
NATIONAL PARKS AND FORESTS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2 p.m., in room SD–366, Dirksen Senate Office Building, Hon. Chic Hecht presiding.

OPENING STATEMENT OF HON. CHIC HECHT, U.S. SENATOR FROM NEVADA

Senator HECHT. Good afternoon. The Subcommittee on Public Lands, National Parks and Forests hearing on S. 1508, S. 1570, and H.R. 1548 will come to order.

All of you can rest very, very comfortably. It will not be a long hearing because I have to catch a plane this afternoon.

I want to start off with a statement. The purpose of the hearing today is to receive testimony on three measures before the Public Lands, National Parks and Forests Subcommittee.

The measures are S. 1508, a bill to withdraw and reserve for the Department of the Air Force certain Federal lands within Lincoln County, NV; S. 1570, a bill to withdraw and reserve for the Department of the Navy certain Federal lands within the Inyo, Kern, San Bernardino, and Imperial Counties, CA; and H.R. 1548, a bill to withdraw certain Federal lands in the State of California for military purposes and for other purposes.

I would like to make a few brief comments regarding the proposed Groom Mountain withdrawal.

The Groom Mountain range is vital to the defense of this Nation. I will not go into the history surrounding this withdrawal. However, I do want to make a few points.

I am supportive of the Air Force and its contribution to my State. Moreover, I believe we must keep America's defensive capabilities at the highest level.

Nevertheless, I also want to point out that I believe the Air Force must be willing to make compensation to Nevada for the impact of its actions at Groom Mountain.

A few that come to mind are paving the road from Rachel into the Nevada Test Site, what will be done to the Sheehan family and their mine, and how will the Air Force work with the state of

Nevada on such issues as funding to the Department of wildlife for water development.

Time is short with regard to this action and I would hope that both the Senate and the House will work together to act quickly and settle this question once and for all.

At this pont I will put copies of all the proposals in the hearing record. The hearing record will remain open for two weeks to receive additional comments and materials.

[The texts of S. 1508, S. 1570, and H.R. 1548 follow:]

II

100TH CONGRESS
1ST SESSION

S. 1508

To withdraw and reserve for the Department of the Air Force certain Federal lands within Lincoln County, Nevada, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 21 (legislative day, JUNE 23), 1987

Mr. JOHNSTON (by request) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To withdraw and reserve for the Department of the Air Force certain Federal lands within Lincoln County, Nevada, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of November 6, 1986 (100 Stat. 3457), is amended by—

(1) striking out the period at the end of section 1(b)(2) of the Act and insert in lieu thereof "and lands comprising approximately 89,600 acres of land in Lincoln County, Nevada, as generally depicted on the map entitled 'Groom Mountain Addition to Nellis Air Force

Range', dated September 1984, and filed in accordance with section 2."; and

(2) striking out section 5(b)(2)(B) of the Act.

II

100TH CONGRESS
1ST SESSION

S. 1570

To withdraw and reserve for the Department of the Navy certain Federal lands within Inyo, Kern, San Bernardino, and Imperial Counties, California, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 30 (legislative day, JUNE 23), 1987

Mr. WILSON introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To withdraw and reserve for the Department of the Navy certain Federal lands within Inyo, Kern, San Bernardino, and Imperial Counties, California, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to valid existing rights, the Federal lands located within the boundaries of the Naval Weapons Center, within Inyo, Kern, and San Bernardino Counties, California, comprising approximately one million one hundred thousand acres, as generally depicted on a map entitled "China Lake Naval Weapons Center Withdrawal-Proposed", dated January 1985 (hereinafter referred to as "China Lake") are

hereby withdrawn from all forms of appropriation under the public land laws, but not the mineral and geothermal leasing laws and to the extent provided in section 2 hereof the mining laws, and are reserved for use of the Naval Weapons Center, China Lake, of the Department of the Navy as a research, development, test and evaluation laboratory and range for air warfare weapons and weapons systems, a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support, and for other defense related uses consistent therewith.

(b) Subject to valid existing rights, approximately one hundred and thirty-two thousand nine hundred and twenty-eight acres of public land in Imperial County, California, as generally depicted on a map entitled "Chocolate Mountain Aerial Gunnery Range Withdrawal—Proposed", dated January 1985, and all other lands within the boundaries of the Chocolate Mountain Aerial Gunnery Range that are now or may become subject to the operation of the public land laws (hereinafter referred to as "Chocolate Mountain") are hereby withdrawn from all forms of appropriation under the public land laws, but not the mineral and geothermal leasing laws and to the extent provided by section 2 hereof the mining laws, and are reserved for use of the Department of the Navy as a testing and training area for aerial bombing, missile

firing, tactical maneuvering and air support, and for other defense related uses consistent therewith.

(c)(1) As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall—

(A) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this Act; and

(B) file maps and the legal description of the lands withdrawn and reserved by this Act with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives.

(2) Such maps and legal descriptions shall have the same force and effect as if they were included in this Act: *Provided*, That the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(3) Copies of the maps and legal descriptions that are filed with the Committees shall be available for public inspection in the Office of the Director, Bureau of Land Management, Washington, District of Columbia; the Office of the Director, California State Office of the Bureau of Land Management, Sacramento, California; the Office of the Commander, Naval Weapons Center, China Lake, California; and

the Office of the Commanding Officer, Marine Corps Air Station —Yuma, Arizona.

(4) The Secretary of the Navy shall reimburse the Secretary of the Interior for the cost of implementing section 1(c) of this Act.

SEC. 2. (a) As soon as possible after the enactment of this Act and at least every five years thereafter, the Secretary of the Interior shall determine, with the concurrence of the Secretary of the Navy, which public and acquired lands covered by the first section of this Act the Secretary of the Interior considers suitable for opening to the operation of the Mining Law of 1872, and the Mineral Leasing Act for Acquired Lands of 1947, or either of such Acts. The Secretary of the Interior shall publish a notice in the Federal Register listing the lands determined suitable pursuant to this section and specifying the opening date.

(b) On the day specified by the Secretary of the Interior in a notice published in the Federal Register pursuant to subsection (a), the land identified under subsection (a) of this section as suitable for opening to the operation of the laws specified in subsection (a) shall automatically be open to the operation of such laws subject to an orderly opening procedure identified in regulations promulgated under subsection (d).

(c) No deposit of minerals or materials of the types identified by section 3 of the Act of July 23, 1955 (69 Stat. 367), whether or not included in the term "common varieties" in that Act, shall be subject to location under the Mining Law of 1982 on lands described in section 1.

(d) The Secretary of the Interior, with the advice and concurrence of the Secretary of the military department concerned shall promulgate such regulations to implement this section as may be necessary to assure safe, uninterrupted, and unimpeded use of the lands described in section 1 for military purposes. Such regulations shall also contain guidelines to advise mining claimants of what environmental or other requirements shall be required on lands opened pursuant to this section.

(e) In the event of a national emergency or for purposes of national defense or security, the Secretary of the Interior, at the request of the Secretary of the military department concerned, shall close any lands that have been opened to mining pursuant to this section.

(f)(1) Except as otherwise provided in this Act, mining claims located pursuant to this Act shall be subject to the provisions of the mining laws. In the event of a conflict between those laws and this Act, this Act shall prevail.

(2) All mining claims located under the terms of this Act shall be subject to the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(g)(1) Patents issued pursuant to this Act for locatable minerals shall convey title to locatable minerals only, together with the right to use so much of the surface as may be necessary for purposes incident to mining under the guidelines for such use established by the Secretary of the Interior by regulation.

(2) All such patents shall contain a reservation to the United States of the surface of all lands patented and of all nonlocatable minerals on those lands.

(3) For the purposes of this section, all minerals subject to location under the Mining Law of 1872 are referred to as "locatable minerals".

SEC. 3. The responsibilities for the Management of the natural resources of the lands withdrawn by this Act are established as follows:

(a) Except as provided in subsection (b) of this section, the Secretary of the Interior shall manage the lands and their resources, to the extent possible in accordance with the provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, as amended; 43 U.S.C. 1701 et seq.), and other applicable laws, for uses which may include, but are not limited to, grazing, management of wildlife habitat,

mineral leasing, control of predatory animals, and the prevention and suppression of brush and range fires resulting from nonmilitary activities, and shall be responsible for the issuance of all easements, leases, permits, and rights-of-way over the lands withdrawn and reserved by this Act. All such uses, and the issuance of all leases, easements and rights-of-way, shall be secondary to the military use of the lands and shall be authorized only with the concurrence of the Secretary of the Navy.

(b) In recognition of the successful management of the lands and resources of China Lake, by the Department of the Navy since 1943, under a cooperative arrangement with the Department of the Interior, the Secretaries of the Navy and the Interior are authorized to continue such cooperative management practices, with the Secretary of the Interior assigning to the Secretary of the Navy the authority to manage the lands and resources withdrawn and reserved by section 1(a) of this Act, and the authority to issue all easements, nonmineral leases, permits and rights-of-way on such lands, so long as such actions are consistent with the plan and program required by subsection (d) of this section. Leases, permits and rights-of-way that traverse the perimeter of the lands withdrawn by this Act and are required for activities administered by the Secretary of the Interior shall be issued by the Secretary of the Interior, with the consent of the Secretary of the

Navy and subject to such conditions as the Secretary of the Navy may prescribe.

(c) Within five years after the date of enactment of this Act, the Secretary of the Interior in consultation with the Secretary of the Navy shall develop a land use plan and management program in accordance with the provisions of the Federal Land Policy and Management Act for the use and management of Chocolate Mountain.

(d) Within five years after the date of enactment of this Act, the Secretary of the Interior and the Secretary of the Navy shall develop a land use plan and management program for the use and management of China Lake.

(e) The Secretary of the Navy shall prepare and submit to the Secretary of the Interior, on an annual basis, a report on the status of the natural resources of the lands in China Lake.

SEC. 4. The responsibilities of the Secretary of the Navy for management of the lands withdrawn and reserved by this Act are established as follows:

(a) The Secretary of the Navy shall have the authority to control the military use of the lands and may authorize use of the lands by the other military departments and agencies of the Department of Defense, as appropriate.

(b) In accordance with the provisions of section 2(b) of this Act, the Secretary of the Navy may manage the lands

and resources withdrawn and reserved by this Act for China Lake and may also be responsible for the issuance of all easements, nonmineral leases, permits, and rights-of-way on such lands.

(c) When military operations, public safety or national security, as determined by the Secretary of the Navy, require the closure of roads and trails commonly in public use, the Secretary of the Navy is authorized to take such action: *Provided,* That such closures shall be limited to the minimum areas and periods required for the purposes specified in this subsection. A reasonable effort shall be made to maintain warning notices during closures.

(d) The Secretary of the Navy shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by section 4 of this Act shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy to the Bureau of Land Management as compensation for such assistance.

(e) On China Lake, the Secretary of the Navy (1) shall have responsibility for the management of the wild horses and burros and is authorized to utilize helicopters and motor-

ized vehicles for the management and control of such animals, and (2) and may utilize sand, gravel, or similar mineral or mineral material resources when the use of such resources is required for construction needs of China Lake.

(f) With respect to China Lake, nothing in this Act shall affect the geothermal exploration and development authorities granted to the Secretary of the Navy by section 6(c)(1) of the Act of July 12, 1982 (10 U.S.C. 2689), except that the Secretary of the Navy is required to obtain the concurrence of the Secretary of the Interior prior to taking any action under that section.

SEC. 5. The Secretary of the Interior and the Secretary of the Navy shall enter into a memorandum of understanding to implement the plan and program developed for Chocolate Mountain in accordance with section 2(c) of this Act and may continue the cooperative arrangement referred to in section 2(b) of this Act. The term of the memorandum of understanding shall be the same as the term of the withdrawal and reservation established by this Act; however, the provisions of the memorandum of understanding may be amended by the Secretaries.

SEC. 6. The withdrawals and reservations established by this Act are not intended to (a) reserve or otherwise withdraw any water for use in connection with the uses identified in the first section of this Act; (b) affect in any manner the

future appropriation under State law, by the United States or others, of water in, under, or upon the lands withdrawn and reserved by this Act; (c) affect water rights acquired by the Department of the Navy or other components of the Department of Defense prior to the enactment of this Act for use in connection with military operations at China Lake and Chocolate Mountain.

SEC. 7. (a) Except as provided otherwise in the section, the withdrawals and reservations established by this Act shall terminate twenty-five years from the effective date of this Act.

(b) At least three years prior to the termination of the withdrawals and reservations established by this Act, the Secretary of the Navy shall advise the Secretary of the Interior as to whether or not the Department of the Navy will have a continuing military need for any of the lands after the termination date:

(1) If the Secretary of the Navy concludes that there will be a continuing military need for any of the lands after the termination date, he shall file an application for extension of the withdrawal and reservation of such lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals. Upon the filing of an application for extension, the withdrawals and reserva-

tions established by this Act shall remain in full force and effect pending processing of the application and a decision and action on the proposed withdrawals and reservations by the Secretary of the Interior, and, if the application for extension is subject to the requirement of section 2 of the Act of February 28, 1958 (72 Stat. 28; 43 U.S.C. 156), by the Congress.

(2) If the Secretary of the Navy concludes that, after the termination date established by subsection (a) of this section, there will be no military need for all or any of the lands withdrawn and reserved by this Act, or if, during the period of withdrawal and reservation, the Secretary of the Navy decides to relinquish all or any of the lands withdrawn and reserved by this Act, the Secretary of the Navy shall file a notice of intention to relinquish with the Secretary of the Interior.

(3) Prior to the filing of a notice of intention to relinquish pursuant to paragraph (2) of this subsection, the Secretary of the Navy shall prepare a written determination as to whether and to what extent the lands are contaminated with explosive, toxic or other hazardous materials. A copy of the determination made by the Secretary of the Navy shall be supplied with the notice of intention to relinquish. Copies of both the notice of intention to relinquish and the determination

concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior—

(A) if the lands are contaminated and the Secretary of the Navy, in coordination with the Secretary of the Interior, determines that decontamination is practicable and economically feasible, taking into consideration the potential future use and value of the lands, and that upon decontamination the lands could be opened to operation of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the lands, unless Congress declines to appropriate funds for the project; and

(B) if the Secretaries of the Navy and the Interior conclude either that decontamination of any or all of the lands proposed for relinquishment is not practicable or economically feasible, or that the lands cannot be decontaminated sufficiently to allow them to be opened to operation of the public land laws, or if Congress declines to appropriate funds for the decontamination of the lands, the Secretary of the Interior shall not be required to accept the lands proposed for relinquishment.

(c) If, because of their contaminated state, the Secretary of the Interior declines to accept jurisdiction over the lands proposed for relinquishment, the withdrawal and reservation established by this Act shall continue indefinitely and the lands shall be retained and managed in accordance with the provisions of this Act. In such case, beginning with the fifth anniversary of the publication date of the Federal Register notice required by section 7(b)(3) of this Act, and every five years thereafter, the Secretary of the Navy, in coordination with the Secretary of the Interior, shall determine whether decontamination of any or all of the lands is both practicable and economically feasible. If the Secretaries conclude that decontamination is both practicable and economically feasible, taking into consideration the potential future use and value of the lands, and that upon decontamination the lands could be opened to operation of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the lands, unless Congress declines to appropriate funds for the project. Following decontamination and upon certification by the Secretary of the Navy that the lands are safe for all nonmilitary uses, the Secretary of the Interior shall reconsider accepting jurisdiction over the lands.

(d) Notwithstanding any other provisions of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over the lands proposed

for relinquishment, is authorized to revoke the withdrawals and reservations established by this Act, as they apply to the lands proposed for relinquishment. Should the decision be made to revoke the withdrawals, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall terminate the withdrawals and reservations, constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior, and shall state the date upon which the lands will be opened to the operation of the public land laws, including the mining laws.

SEC. 8. (a) The functions of the Secretary of the Navy under this Act may be delegated.

(b) The functions of the Secretary of the Interior under this Act may be delegated, except that the order referred to in section 6(d) of this Act, may be approved and signed only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 9. The United States, all departments or agencies and their officers and employees thereof shall be held harmless and shall not be liable for any injuries or damages to persons or property suffered in the course of any mining, mineral or geothermal leasing activity conducted on lands described in section 1 of this Act.

II

100TH CONGRESS
1ST SESSION

H. R. 1548

IN THE SENATE OF THE UNITED STATES

OCTOBER 6 (legislative day, SEPTEMBER 25), 1987

Received, read twice and referred to the Committee on Energy and Natural Resources

AN ACT

To withdraw certain Federal lands in the State of California for military purposes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "California Military Lands Withdrawal Act of 1987".

SEC. 2. WITHDRAWALS.

(a) CHINA LAKE.—(1) Subject to valid existing rights and except as otherwise provided in this Act, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified

in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) use as a research, development, test, and evaluation laboratory;

(B) use as a range for air warfare weapons and weapon systems;

(C) use as a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support; and

(D) subject to the requirements of section 4(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands, located within the boundaries of the China Lake Naval Weapons Center, comprising approximately 1,100,000 acres in Inyo, Kern, and San Bernardino Counties, California, as generally depicted on a map entitled "China Lake Naval Weapons Center Withdrawal—Proposed", dated January 1985, and filed in accordance with section 3.

(b) CHOCOLATE MOUNTAIN.—(1) Subject to valid existing rights and except as otherwise provided in this Act, the Federal lands referred to in paragraph (2), and all other areas

within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) testing and training for aerial bombing, missile firing, tactical maneuvering and air support; and

(B) subject to the provisions of section 4(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately 227,369 acres in Imperial and Riverside Counties, California, as generally depicted on a map entitled "Chocolate Mountain Aerial Gunnery Range Withdrawal" dated July 1987 and filed in accordance with section 3.

SEC. 3. MAPS AND LEGAL DESCRIPTIONS.

(a) PUBLICATION AND FILING REQUIREMENT.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this Act; and

(2) file maps and the legal description of the lands withdrawn and reserved by this Act with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives.

(b) TECHNICAL CORRECTIONS.—Such maps and legal descriptions shall have the same force and effect as if they were included in this Act except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—Copies of such maps and legal descriptions shall be available for public inspection in the Office of the Director of the Bureau of Land Management, Washington, District of Columbia; the Office of the Director, California State Office of the Bureau of Land Management, Sacramento, California; the office of the commander of the Naval Weapons Center, China Lake, California; the office of the commanding officer, Marine Corps Air Station, Yuma Arizona; and the Office of the Secretary of Defense, Washington, District of Columbia.

(d) REIMBURSEMENT.—The Secretary of Defense shall reimburse the Secretary of the Interior for the cost of implementing this section.

SEC. 4. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT BY THE SECRETARY OF THE INTERIOR.—(1) Except as provided in subsection (g), during the period of the withdrawal the Secretary of the Interior shall manage the lands withdrawn under section 2 pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including this Act.

(2) To the extent consistent with applicable law and Executive orders, the lands withdrawn under section 2 may be managed in a manner permitting—

(A) the continuation of grazing pursuant to applicable law and Executive orders where permitted on the date of enactment of this Act;

(B) protection of wildlife and wildlife habitat;

(C) control of predatory and other animals;

(D) recreation;

(E) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(F) geothermal leasing on the lands withdrawn under section 2(a) (relating to China Lake).

(3)(A) All nonmilitary use of such lands, including the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the

military use of such lands for the purposes specified in or authorized pursuant to this Act.

(B) The Secretary of the Interior may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of such lands only with the concurrence of the Secretary of the Navy.

(b) CLOSURE TO PUBLIC.—(1) If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this Act, the Secretary of the Navy, after consultation with the Secretary of the Interior, may take such action as the Secretary of the Navy determines necessary or desirable to effect and maintain such closure.

(2) Any such closure shall be limited to the minimum areas and periods which the Secretary of the Navy determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the Navy shall—

(A) keep appropriate warning notices posted; and

(B) take appropriate steps to notify the public concerning such closures.

(c) MANAGEMENT PLAN.—The Secretary of the Interior (after consultation with the Secretary of the Navy) shall develop a plan for the management of each area withdrawn

under section 2 during the period of such withdrawal. Each plan shall—

(1) be consistent with applicable law;

(2) be subject to conditions and restrictions specified in subsection (a)(3);

(3) include such provisions as may be necessary for proper management and protection of the resources and values of such area; and

(4) be developed not later than three years after the date of enactment of this Act.

(d) BRUSH AND RANGE FIRES.—The Secretary of the Navy shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands withdrawn under section 2 as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by subsection (e) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy to the Bureau of Land Management as compensation for such assistance.

(e) MEMORANDUM OF UNDERSTANDING.—(1) The Secretary of the Interior and the Secretary of the Navy shall (with respect to each land withdrawal under section 2) enter into a memorandum of understanding to implement the man-

agement plan developed under subsection (c). Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of lands withdrawn under section 2 if requested by the Secretary of the Navy.

(2) The duration of any such memorandum shall be the same as the period of the withdrawal of the lands under section 2.

(f) ADDITIONAL MILITARY USES.—Lands withdrawn by section 2 may be used for defense-related uses other than those specified in such section. The Secretary of Defense shall promptly notify the Secretary of the Interior in the event that the lands withdrawn by this Act will be used for defense-related purposes other than those specified in section 2. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nonmilitary uses of the withdrawn land or portions thereof.

(g) MANAGEMENT OF CHINA LAKE.—(1) The Secretary of the Interior may assign the management responsibility for the lands withdrawn under section 2(a) to the Secretary of the Navy who shall manage such lands, and issue

leases, easements, rights-of-way, and other authorizations, in accordance with this Act and cooperative management arrangements between the Secretary of the Interior and the Secretary of the Navy. In the case that the Secretary of the Interior assigns such management responsibility to the Secretary of the Navy before the development of the management plan under subsection (c), the Secretary of the Navy (after consultation with the Secretary of the Interior) shall develop such management plan.

(2) The Secretary of the Interior shall be responsible for the issuance of any lease, easement, right-of-way, and other authorization with respect to any activity which involves both the lands withdrawn under section 2(a) and any other lands. Any such authorization shall be issued only with the consent of the Secretary of the Navy and, to the extent that such activity involves lands withdrawn under section 2(a), shall be subject to such conditions as the Secretary of the Navy may prescribe.

(3) The Secretary of the Navy shall prepare and submit to the Secretary of the Interior an annual report on the status of the natural and cultural resources and values of the lands withdrawn under section 2(a). The Secretary of the Interior shall transmit such report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(4) The Secretary of the Navy shall be responsible for the management of wild horses and burros located on the lands withdrawn under section 2(a) and may utilize helicopters and motorized vehicles for such purposes. Such management shall be in accordance with laws applicable to such management on public lands and with the memorandum of understanding entered into between the Secretary of the Interior and the Secretary of the Navy on August 3, 1983.

(5) Neither this Act nor any other provision of law shall be construed to prohibit the Secretary of the Interior from issuing any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands withdrawn under section 2(a) pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) but no such lease shall be issued without the concurrence of the Secretary of the Navy.

(6) This Act shall not affect the geothermal exploration and development authority of the Secretary of the Navy under section 2689 of title 10, United States Code, except that the Secretary of the Navy shall obtain the concurrence of the Secretary of the Interior before taking action under that section with respect to the lands withdrawn under section 2(a).

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SEC. 5. DURATION OF WITHDRAWALS.

(a) DURATION.—The withdrawal and reservation established by this Act shall terminate 15 years after the date of enactment of this Act.

(b) DRAFT ENVIRONMENTAL IMPACT STATEMENT.—No later than 12 years after the date of enactment of this Act, the Secretary of the Navy shall publish a draft environmental impact statement concerning continued or renewed withdrawal of any portion of the lands withdrawn by this Act for which that Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft environmental impact statement. Prior to the termination date specified in subsection (a), the Secretary of the Navy shall hold a public hearing on any draft environmental impact statement published pursuant to this subsection. Such hearing shall be held in the State of California in order to receive public comments on the alternatives and other matters included in such draft environmental impact statement.

(c) EXTENSIONS OR RENEWALS.—The withdrawals established by this Act may not be extended or renewed except by an Act or joint resolution.

SEC. 6. ONGOING DECONTAMINATION.

(a) PROGRAM.—Throughout the duration of the withdrawals made by this Act, the Secretary of the Navy, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this Act at least at the level of decontamination activities performed on such lands in fiscal year 1986.

(b) REPORTS.—At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this Act and for each subsequent fiscal year, the Secretary of the Navy shall transmit to the Committees on Appropriations, Armed Services, and Energy and Natural Resources of the Senate and to the Committees on Appropriations, Armed Services, and Interior and Insular Affairs of the House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including:

(1) amounts appropriated and obligated or expended for decontamination of such lands;

(2) the methods used to decontaminate such lands;

(3) amount and types of contaminants removed from such lands;

(4) estimated types and amounts of residual contamination on such lands; and

(5) an estimate of the costs for full decontamination of such lands and the estimate of the time to complete such decontamination.

SEC. 7. REQUIREMENTS FOR RENEWAL.

(a) NOTICE AND FILING.—(1) No later than three years prior to the termination of the withdrawal and reservation established by this Act, the Secretary of the Navy shall advise the Secretary of the Interior as to whether or not the Secretary of the Navy will have a continuing military need for any of the lands withdrawn under section 2 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the Navy concludes that there will be a continuing military need for any of such lands after the termination date, the Secretary shall file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If, during the period of withdrawal and reservation, the Secretary of the Navy decides to relinquish all or any of the lands withdrawn and reserved by this Act, the Secretary shall file a notice of intention to relinquish with the Secretary of the Interior.

(b) CONTAMINATION.—(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Sec-

retary of Defense, acting through the Department of Navy, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

(3) Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(c) DECONTAMINATION.—If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Navy, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) ALTERNATIVES.—If the Secretary of the Interior, after consultation with the Secretary of the Navy, concludes that decontamination of any land which is the subject of a

notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary of the Interior shall not be required to accept the land proposed for relinquishment.

(e) STATUS OF CONTAMINATED LANDS.—If, because of their contaminated state, the Secretary of the Interior declines to accept jurisdiction over lands withdrawn by this Act which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this Act the Secretary of the Interior determines that some of the lands withdrawn by this Act are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Navy shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Navy shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

(f) REVOCATION AUTHORITY.—Notwithstanding any other provisions of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over lands proposed for relinquishment pursuant to subsection (a), is authorized to revoke the withdrawal and reservation established by this Act as it applies to such lands. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of some or all of the public lands laws, including the mining laws.

SEC. 8. DELEGABILITY.

(a) DEFENSE.—The functions of the Secretary of Defense or the Secretary of the Navy under this title may be delegated.

(b) INTERIOR.—The functions of the Secretary of the Interior under this title may be delegated, except that an

order described in section 7(f) may be approved and signed only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 9. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn by this Act shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code.

SEC. 10. IMMUNITY OF UNITED STATES.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injuries or damages to persons or property suffered in the course of any geothermal leasing or other authorized non-military activity conducted on lands described in section 2 of this Act.

SEC. 11. MISCELLANEOUS.

(a) AMENDMENTS.—(1) Section 2(c) of the Military Lands Withdrawal Act of 1986 (Public Law 99–606) is amended by striking out "the office of the commander, Barry M. Goldwater Air Force Base" and inserting in lieu thereof "the office of the commander, Luke Air Force Base".

(2) Section 3(a)(3)(A) of such Act is amended by striking out "other than" and by inserting in lieu thereof "including".

(3) Section 7(a) of such Act is amended by striking out "cleanup achieved" and by inserting in lieu thereof "decontamination activities performed".

(b) EL CENTRO RANGES.—The Secretary of the Interior is authorized to permit the Secretary of the Navy to use until January 1, 1990 the public lands in Imperial County, California, generally depicted on the map entitled "El Centro Ranges" dated July, 1987, for the same purposes and to no greater extent than such lands were used by the Secretary of the Navy as of July 1, 1987. Such permission shall be through a cooperative agreement or other appropriate means. Such use shall be subject to such terms and conditions as the Secretary of the Interior may require so as to protect the natural, environmental, scientific, cultural, and other resources and values of such lands and to minimize the extent to which such use by the Secretary of the Navy impedes or restricts use of such or other public lands for recreational and other purposes.

(c) COACHELLA VALLEY.—The Secretary of the Interior is authorized and directed to take all steps necessary to complete land exchanges between the Nature Conservancy and the Bureau of Land Management with regard to the Coachella Valley preserve, as described in Bureau Land Management case files CA 18891, CA 18781, CA 17921, CA 20260, CA 17772, and to consummate such exchanges.

(d) TRAINING CENTER.—Unless otherwise provided by law, the lands within the Toiyabe National Forest, in California, which have been used for purposes of the United States Marine Corps Mountain Warfare Training Center, shall be retained as part of such National Forest. The Secretary of Agriculture shall continue to make such lands available to the United States Marine Corps for purposes of such training center, subject to such restrictions as the Secretary of Agriculture finds appropriate to protect the natural, environmental, aesthetic, scientific, cultural, and other resources and values of such lands. So far as possible, consistent with use of such lands by the United States Marine Corps for purposes of the Mountain Warfare Training Center, the affected lands shall be open to public recreation and other uses.

Passed the House of Representatives October 5, 1987.

Attest: DONNALD K. ANDERSON,

Clerk.

Senator HECHT. Senator Wilson, would you like to make a statement?

STATEMENT OF HON. PETE WILSON, U.S. SENATOR FROM CALIFORNIA

Senator WILSON. Mr. Chairman, I would. First, I would like to thank you for taking the time to schedule the hearings today on legislation which includes my own S. 1570, which I have introduced to withdraw Federal lands from California for military purposes.

The bill is made necessary by the expiration of the existing land, withdrawal status of the China Lake Naval Weapons Center and the Chocolate Mountain aerial gunnery range.

China Lake is the Navy's principal center for research, development, testing, and evaluation of air warfare and missile weapons system.

As the largest Defense Department gunnery range in the continental United States, Chocolate Mountain is an important Marine Corps training base for pilots in air combat, gunnery, and ordnance delivery.

Due to the full-time and extensive military use of these approximately 1.2 million acres, this withdrawal is indispensable.

These lands have been dedicated to military purposes since the 1940's, and failure to reinstate the withdrawal status will seriously cripple DOD's capability to test new weapons and train new military personnel.

So this bill contains an added feature that was not part of the previous withdrawal, that will enable great utilization of the land by allowing mining and some geothermal development activity to the extent that that activity is consistent with the primary purpose, the military uses that are assigned.

It will permit a limited access to potentially valuable geothermal mineral resources under the cooperative management of the Secretary of the Navy and the Secretary of the Interior.

Under the terms of this bill, whatever lands deemed suitable by the Secretary of the Interior, in concurrence with the Secretary of the Navy, will be open for miners to stake claims in the traditional manner allowed by the 1872 mining law.

The location and operation of these mines will be subject to whatever limitations are deemed necessary by the Secretary of the Navy.

Mr. Chairman, I note that the city of Los Angeles is proposing the addition of clarifying language to S. 1570, regarding geothermal development at China Lake, and would ask the committee to give this proposed language its favorable consideration.

I have also been asked by the California Energy Commission to submit on its behalf its proposed amendment to this legislation, which also deals with the subject of geothermal development.

In this regard, I request that a letter to me from Charles Imbrecht of the California Energy Commission, dated September 30, 1987, and the letter's enclosed suggested report language, be made part of the record.

In closing, Mr. Chairman, I am appreciative of the subcommittee's willingness to consider this matter, and would hope that you

would be able to move S. 1570 in lieu of the House-passed counterpart, H.R. 1548, at your earliest convenience.

Thank you, sir.

[The material submitted by Senator Wilson follows:]

STATE OF CALIFORNIA—THE RESOURCES AGENCY
GEORGE DEUKMEJIAN, Governor
CALIFORNIA ENERGY COMMISSION
CHARLES R. IMBRECHT
Chairman

September 30, 1987

The Honorable Pete Wilson
United States Senate
SH-720 Hart Senate Office Building
Washington, D.C. 20510-0502

Dear Senator Wilson:

We at the California Energy Commission appreciate the fact that Jim Burroughs of your staff met with our Washington consultants, Monty Winkler and Jerry Kennedy.

As you are aware, the Commission feels very strongly that we have jurisdiction over geothermal resources within the State of California. However, to remove any possible ambiguity, we hope that you will consider the following amendment to your bill, S.1570, as a new Section 4(g):

> Geothermal resource development within the China Lake Naval Weapons Center shall be subject to state permit authority.

This amendment will protect California's interests and insure that the Navy is protected within the State's jurisdiction. However, it will not interfere with the Navy's use of the China Lake Weapons Center to the fullest extent necessary for national security and defense.

Monty and Jerry were most encouraged by their meeting and follow-up conversation, and feel that you understand our problem and will make every effort to resolve it. Thank you for your continued assistance and cooperation.

Sincerely,

Charles R. Imbrecht

CHARLES R. IMBRECHT
Chairman

COMMITTEE REPORT LANGUAGE FOR CHINA LAKE
NAVAL WEAPONS CENTER

The amendment clarifies the application of state environmental laws to energy projects on the Naval Weapons Center (NWC) at China Lake. Power project proponents have until recently maintained that projects on the NWC were exempt from state jurisdiction because such projects were on the NWC and either (1) pursuant to contract with the Navy or (2) pursuant to Geothermal Steam Act leases from the Bureau of Land Management (BLM). The California Energy Commission (Commission) has insisted that the projects are subject to state jurisdiction because project proponents are independant contractors building energy projects on land over which the Navy (or BLM) has only proprietorial control, and because the Geothermal Steam Act and other federal laws and regulations do not conflict with the state's powerplant siting act.

The federal courts have long recognized the traditional state interest in regulation of the need for and production of electricity, and the state concern that rates be fair and efficient. (Pacific Gas and Electric Company v. State Energy Resources Conservation & Development Commission (1983) 461 U.S. 190, 205-206.) In Pacific Gas and Electric, the court reaffirmed the intrinsic state interest in regulating electricity production to protect the economic interests of its citizens. The rationale for such state authority is stronger today than ever before, as federal law (the Public Utilities Regulatory Policies Act of

1978, or "PURPA") now requires state regulatory bodies to determine the appropriate "avoided cost" for third party power producers, a responsibility which is inherently linked to protecting state consumers from the high cost of "overbuilding" the electric generating system.

In California, the Commission is the state agency charged with assuring that supply equals (but does not substantially exceed) demand. Every two years the state forecasts the future growth in electricity demand, and then licenses new generating facilities only if they are consistent with that forecast. Powerplant proponents should not be able to circumvent this regulatory protection by placing powerplants on federal military installations.

Equally important, California jurisdiction assures uniform and appropriate environmental protection that may not be observed by mere compliance with federal law. California has its own environmental quality act (CEQA), its own endangered species act, and its own powerplant siting act. These statutory protections, which surpass their federal counterparts in their breadth and stringency, are enforced by the Commission to maximize the protection of the state's unique environmental resources in the face of high levels of population and economic growth. Many species absent from the federal endangered species lists are listed as endangered or threatened in California, and therefore entitled to protection and elaborate project mitigation not

offered under federal law. Such species on the NWC properties include the Mojave Ground Squirrel, the ringtail, the prairie falcon, the golden eagle, and Le Conte's thrasher, which do not appear on federal lists but are protected species under California law. In addition, plants such as the Joshua tree and the cottontop cactus are protected under state law, but not under federal law.

Finally, California jurisdiction over projects such as those on the NWC assures its citizenry of an elaborate public process in which all interested persons can participate. The public participation provisions in the Commission's statute are unprecedented in degree and scope, solicit participation from the general public, involve extensive public workshops and hearings, and are uncommonly responsive to public comment. This process stands in stark contrast to the federal review mechanism, which uses "notice and comment" format, involves no hearing process, and solicits participation only from other agencies of government. Thus state jurisdiction is much more responsive to the legitimate public concerns of those most directly affected by powerplant projects such as those on the NWC.

Senator HECHT. Thank you, Senator. I will ask that you summarize your statements, and your prepared text will be a part of the record.

So we are going to start right off with John Rittenhouse.

STATEMENT OF JOHN O. RITTENHOUSE, DUPUTY FOR INSTALLATIONS MANAGEMENT, DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE, U.S. AIR FORCE

Mr. RITTENHOUSE. Mr. Chairman, thank you, and members of the committee, Senator Wilson.

I am John O. Rittenhouse, Deputy for Installations Management, Deputy Assistant Secretary of the Air Force for Installations.

I am pleased to appear before you to discuss S. 1508 that amends the Military Lands Withdrawal Act of 1986, Public Law 99-606 of November 6, 1986. The amendment adds 89,600 acres of public land located adjacent to the Nellis Air Force range and referred to as the Groom Mountain addition.

I think, Mr. Chairman, you have more eloquently stated it than I would in my opening statement, the concern that the Air Force has for the national defense, and I know that you are familiar with the area in question.

And I defer to your opening comments in making the point of concern to the Air Force in getting a timely resolution of this issue.

I therefore, in the interests of saving time, would just submit my written comments, brief though they may be, to the Committee record, and open myself for questions. I think you raised the question of mitigation, and some of the things in regard to roads and specifics like that, if you care to ask them.

So thank you very much.

[The prepared statement of Mr. Rittenhouse follows:]

Not for Publication Until Released
By the Subcommittee on Public Lands,
National Parks and Forests
Committee on Energy and National Resources
United States Senate

STATEMENT OF

JOHN O. RITTENHOUSE

DEPUTY FOR INSTALLATIONS MANAGEMENT

DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE

(Installations)

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

UNITED STATES SENATE

MARCH 17, 1988

Mr. Chairman and members of the Committee, I am John O. Rittenhouse, Deputy for Installations Management, Deputy Assistant Secretary of the Air Force for Installations. I am pleased to appear before you to discuss S. 1508 that amends the Military Lands Withdrawal Act of 1986, Public Law 99-606, November 6, 1986. The amendment adds 89,600 acres of public land located adjacent to Nellis Air Force Range and referred to as the Groom Mountain addition. All provisions of the Act would apply to the Groom Mountain addition, including a withdrawal period ending November 7, 2001.

The Groom Mountain addition is used by the Air Force to provide a public safety and security buffer zone for national defense programs carried out on Nellis Air Force Range. Because of the nature of the activities conducted on the Nellis range and the relationship of those activities to Groom Mountain, it is essential that the lands covered by S. 1508 not be open to unauthorized access or use.

Initial control of access to and use of the Groom Mountain addition was provided by withdrawal made pursuant to the Act of October 17, 1984 (Public Law 98-485), pending completion of an environmental impact statement (EIS) addressing its further withdrawal beyond December 31, 1987. The Air Force, in cooperation with the Bureau of Land Management, filed the final EIS with the Environmental Protection Agency on November 14,

1986. The Committee has been provided with this document.

The Groom Mountain addition is currently withdrawn until March 31, 1988, by Joint Resolution No. 395, Continuing Appropriations for the Fiscal Year Ending September 30, 1988. Since the withdrawal is again about to expire, it is urgent that legal control of the land remains unbroken. Such control by the Air Force would be best provided by immediate passage of S. 1508.

This concludes my prepared remarks. Thank you, Mr. Chairman, for the opportunity to explain the Air Force position on S. 1508.

Senator HECHT. I appreciate your statement and your comments about Groom Mountain. I certainly share all your thoughts. We must address this issue immediately.

I will come back to some questions, but let us go on and hear from Jeffrey Roth.

STATEMENT OF A. JEFFREY ROTH, DIRECTOR OF NAVY REAL ESTATE, NAVAL FACILITIES ENGINEERING COMMAND, U.S. NAVY, ACCOMPANIED BY BRIG. GEN. MICHAEL DOWNS, DIRECTOR OF FACILITIES AND SERVICES DIVISION, COMMANDANT OF THE MARINE CORPS; AND CAPT. JOHN A. BURT, COMMANDER, NAVAL WEAPONS CENTER, CHINA LAKE, CA

Mr. ROTH. Thank you, Mr. Chairman. First of all, I would like to say that I have Brig. Gen. Michael Downs with me from the Marine Corps, and Capt. John Burt from the China Lake Weapons Center. He is the commander there.

More or less, it demonstrates how interested and how very much we want withdrawals of the two Navy facilities that are covered under both S. 1570 and H.R. 1548.

I will also submit my comments for the record, and to synopsize them will say that, as Senator Wilson said, these are two extremely important military installations for the Navy and Marine Corps.

The Chocolate Mountain south range has been expired since the early 1970's and we very much need to get it rewithdrawn. The China Lake Weapons Center has had an expired withdrawal on the Mojave B range portion of it since the late 1970's, and again it is very, very important to us to get it withdrawn.

These two installations have been covered under a withdrawal in the 99th Congress that we had hearings before your committee on, and the bills were passed. We made good progress, and they just did not get enacted into law.

We are very much hopeful that we can work out acceptable legislative language with you here so that we can get actual enactment of law and get back to the business of military operations at these bases.

We do have two bills that do have different content, and to summarize, the major concerns that we have, one, vis-a-vis the other, generally S. 1570 is the more acceptable bill to us for a number of reasons.

Primarily length of term, and most of the general provisions are more acceptable to us, with the exception of the mining and mineral leasing provisions.

For both China Lake and the Chocolate Mountain ranges, we feel that mining and mineral leasing are generally not compatible with the operations that take place there. Now, while we could live with mining and mineral leasing language and support either bill, we very strongly feel that mining and mineral leasing is not in the best interests of the military at these two ranges, these two bases.

We have tried very hard to accommodate mining and mineral leasing on other installations where there was some potential compatibility. But Chocolate Mountain is highly contaminated and very, very actively used seven days a week, essentially 24 hours a day.

And China Lake is the major RDT&E installation for weapons testing for the Navy. It is also extensively used with experimental rockets that are, not just rockets but all kinds of weaponry that require very stringent controls. the lands are very much contaminated in many areas of the weapons center as well.

Both General Downs aned Captain Burt could answer really any specifics that could reinforce the reasons why we don't feel that mining and mineral leasing are really compatible at these two bases.

So, given a preference, we would ask that the House provisions regarding mining and mineral leasing govern. Although again we want the withdrawl very badly and are willing to discuss any compromises or things of that nature.

Senator HECHT. If you find out you cannot do all these things in California, we have the Nevada Test Site, the Free World's largest laboratory. We would be happy to accommodate, let you do your work up there.

Mr. ROTH. I cannot respond to that, Senator. That is really the major provision in S. 1570 that concerns us.

Again, I will just complete my statement by saying we could live with either one of the two bills. S. 1570 is the preferable one, with the one exception.

With that I would be prepared for comments, and I would just like to ask if either General Downs or Captain Burt would like to make any short statements.

[The prepared statement of Mr. Roth follows:]

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BY THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

STATEMENT OF MR. A. JEFFREY ROTH
DIRECTOR OF NAVY REAL ESTATE
NAVAL FACILITIES ENGINEERING COMMAND
BEFORE THE
SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS
FOR
S. 1570 and H.R. 1548 100TH CONGRESS, BILLS, "TO WITHDRAW CERTAIN FEDERAL LANDS IN THE STATE OF CALIFORNIA FOR MILITARY PURPOSES, AND FOR OTHER PURPOSES"

17 MARCH 1988

REPRODUCED AT GOVERNMENT EXPENSE

Good Morning Mr. Chairman and members of the subcommittee.

I am pleased to have the opportunity to appear before the subcommittee today to discuss S. 1570 and H.R. 1548, two versions of a bill to withdraw certain federal lands in the State of California for military purposes. Both bills include provisions to withdraw public lands for the Naval Weapons Center, China Lake, California and the Chocolate Mountain Aerial Gunnery Range, Imperial County, California, under the control of the Marine Corps Air Station, Yuma, Arizona. Essential Navy and Marine Corps military activities have been conducted on each of these properties for over 40 years under various land use agreements that have either expired or require updating. The present lack of proper land use agreements has resulted in increasing management problems on these properties, that in some instances are impairing the military missions. It, therefore, is most important to the Navy that action to withdraw these lands be completed as soon as possible.

Section 1(a) of S. 1570 and Section 2 of H.R. 1548 would withdraw approximately 1,100,000 acres within Inyo, Kern, and San Bernandino Counties, California comprising the public lands within the Naval Weapons Center, China Lake.

REPRODUCED AT GOVERNMENT EXPENSE

The vast majority of these lands have been in continuous use by the Center since 1940s to accomplish its critical defense mission, which is to be the principal Navy Research, Development, Test and Evaluation Center for air warfare systems and missile weapon systems and the national range/facility for parachute test and evaluation. This mission requires extensive ranges for testing and evaluating experimental/developmental air warfare and missile systems. These and previous military uses have resulted in contamination of large portions of the Center with unexploded ordnance. Land uses have been covered under a number of public land orders and associated land use agreements each of which has different terms and conditions. The withdrawal for the 314,000 acre Mojave "B" Range portion of the Center expired in 1978. When processing the re-withdrawal application for Mojave "B", it was decided to update and unify the various withdrawal documents for the Center under a single withdrawal. This withdrawal for approximately 1,100,000 acres will provide clear, updated and uniform management of the Center lands. It will be of great benefit for scheduling military uses of the Center as well as for other land management purposes. Only 8,000 acres of lands not covered under existing withdrawals or the expired withdrawal is covered by this new withdrawal. The 8,000 acres provide a security zone to a test site that may pose a health and safety hazard to people who would be in the security area.

REPRODUCED AT GOVERNMENT EXPENSE

Section 1(b) of S. 1570 would re-withdraw approximately 132,928 acres in Imperial County, California comprising the public lands within the southern portion of the Chocolate Mountain Aerial Gunnery Range. Section 2(b) of H.R. 1548 includes an additional 94,441 acres of public lands located in the northern portion of the range for a total of approximately 227,369 acres of public lands being withdrawn under this Act. The 94,441 acres were withdrawn permanently under Public Land Order #281. The 132,928 acres have been used under public land orders and, from 1963 to 1973, under a land withdrawal pursuant to Public Law 88-119. Approximately 231,614 acres of private lands are interspersed within this range. These private lands have been acquired by the Navy. The range is used largely by the Marine Corps Air Station, Yuma, Arizona but also by air squadrons from Naval Air Stations, Miramar and Lemoore, California as well as the other military services. The range has had continuous live ammunition air-to-ground gunnery practice since World War II and is, therefore, highly contaminated. The degree of contamination and mountainous terrain make decontamination most difficult, if not impossible.

The Chocolate Mountain Complex is used intensively 7 days a week. It is the largest Department of Defense (DOD) gunnery range in the continental United States and is vital for military

REPRODUCED AT GOVERNMENT EXPENSE

training. Public entry upon the range is not allowed because of its highly contaminated condition and the intensive military activities. Because the range has not been withdrawn since 1973, it is becoming increasingly difficult to control the property.

In addition to the difference in acreage at Chocolate Mountain, the two bills differ in several other areas:

H.R. 1548 proposes a 15 year withdrawal while S. 1570 proposes 25 years. We would prefer a 25 year term. The Navy foresees a need to use both China Lake and Chocolate Mountain at current operating levels for at least 25 years. H.R. 1548 also requires the Navy prepare a Draft Environmental Impact Statement and hold public hearings for any further extension or renewal of the withdrawals. It also requires that such extension or renewal be only by an Act or joint resolution. S. 1570 provides for extension or renewal in accordance with regulations and procedures of the Department of Interior. We much prefer the S. 1570 version in this respect. Department of Interior regulations and procedures provide established mechanisms for environmental and other compliance requirements. This includes compliance with the National Environmental Policy Act of 1969 as well as all public land use laws.

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H.R. 1548 proposes to withdraw these lands from appropriation under the mining and mineral and geothermal leasing laws. S. 1570 on the other hand opens the lands to mineral and geothermal leasing and provides for a determination every five years of which lands are considered suitable for opening to the operation of the mining laws. The Navy strongly prefers the exclusion of such uses as is proposed in H.R. 1548. While there are a number of Navy and Marine Corps installations at which mining or mineral leasing is allowed or is proposed to be allowed, such activities are permissible because they are compatible with ongoing military requirements. In fact, the Navy worked with the Department of Interior and representatives of the mining industry to develop procedures for allowing mining in instances where such compatibility exists. However, the military missions of both China Lake and Chocolate Mountain make such an arrangement inappropriate.

H.R. 1548 directs the Navy to undertake a certain level of annual decontamination of unexploded ordnance on the withdrawn lands and to provide an annual report to Congress on the decontamination activities. S. 1570 does not have such a requirement. Both at Chocolate Mountain and China Lake, the Navy has, of necessity, instituted ordnance removal programs that will continue in any event. Continuous efforts are made to reduce

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contamination under these programs. The direction under H.R. 1548 is therefore redundant and merely creates an additional administrative burden.

Finally, Section 11 of H.R. 1548 contains four miscellaneous provisions unrelated to the land withdrawals. The Navy has no objection to any of these provisions.

In summary, the Navy can support either S. 1570 or H.R. 1548 because both bills provide the essential withdrawal authority that is sorely needed. We appreciate the opportunity to discuss the bills and are willing to work with the subcommittee to resolve any technical issues so that withdrawal legislation can be enacted expeditiously.

With me today, also representing the Department of the Navy, are Brigadier General Michael Downs, Director of Facilities and Services Division, Commandant of the Marine Corps, and Captain John A. Burt, Commander, Naval Weapons Center, China Lake, California. We would be pleased to answer any questions you may have.

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Senator HECHT. Thank you very much.

Our next witness is Robert F. Burford, Bureau of Land Management, Director.

STATEMENT OF ROBERT F. BURFORD, DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Mr. BURFORD. We, too, support the two Senate bills, and we do prefer S. 1570 over H.R. 1548, as does the gentleman from the Navy.

But, unlike the Navy, we would like to see mineral leasing and mineral activities, which we always testify in favor of, because of the national defense needs, and the fact that there is some potential there.

Our preference between the two bills, on China Lake and Chocolate Mountain, is S. 1570. My testimony on S. 1508 contains a mistake, which I would like counsel to correct. There is the date of March 30, which I am told is supposed to be March 31.

We think that the 25-year period in S. 1570 is appropriate. We do not believe that either one of the areas should be closed to the operation of mining, mineral, and geothermal leasing laws. We would not proceed without the approval of the plan by the base commander in any case.

H.R. 1548 is silent on the issue of water rights. But S. 1570 would provide that the withdrawals established under this act are not intended to reserve or otherwise withdraw any water for the uses identified in this act or affect the future appropriation under State law by the United States or others of water in, under, or upon the lands withdrawn by this act or affect water rights acquired by the Navy or other components of the Department of Defense prior to enactment of this act for use in connection with military operations at China Lake.

This is another significant provision which we believe should be incorporated in the military withdrawal legislation.

Both bills contain requirements for relinquishment of the withdrawn lands and require decontamination before the Secretary of the Interior must take back the lands and before they can be open to the operation of the public land laws, which may or may not ever happen.

H.R. 1548 would also direct the Secretary of the Interior to complete specified land exchanges concerning the Coachella Valley preserve between the Nature Conservancy and BLM. We believe the language, as written, may not be adequate to meet the legal requirements for an exception to the preliminary injunction in the National Wildlife Federation lawsuit.

We would be happy to provide more adequate language to your staff, if you would request it. We suggest repeal of the current law that originally withdrew Chocolate Mountain, and the revocation of several land orders relating to the withdrawn areas. On enactment of this legislation, they would no longer be necessary.

I, too, would be ready to answer any questions which the Committee may have. Thank you.

[The prepared statement of Mr. Burford follows:]

MAR 17 1988

STATEMENT OF ROBERT F. BURFORD, DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, ON S. 1508, A BILL "TO WITHDRAW AND RESERVE FOR THE DEPARTMENT OF THE AIR FORCE CERTAIN FEDERAL LANDS WITHIN LINCOLN COUNTY, NEVADA; S. 1570, A BILL "TO WITHDRAW AND RESERVE FOR THE DEPARTMENT OF THE NAVY CERTAIN FEDERAL LANDS WITHIN INYO, KERN, SAN BERNARDINO, AND IMPERIAL COUNTIES, CALIFORNIA; AND H.R. 1548, AN ACT "TO WITHDRAW CERTAIN FEDERAL LANDS IN THE STATE OF CALIFORNIA FOR MILITARY PURPOSES, AND FOR OTHER PURPOSES."

I appreciate the opportunity to appear here today to discuss three bills that would withdraw lands for military purposes.

S. 1508 - Groom Mountain

S. 1508 would amend the Military Lands Withdrawal Act of November 6, 1986, to add Groom Mountain, comprising approximately 89,600 acres, to the Nellis Air Force Range withdrawal area. In addition, the bill would delete section 5(b)(2)(B) of that Act which relates to lands to be included in the environmental impact statement required by the Act.

We support the enactment of this bill. Expeditious congressional action on S. 1508 is necessary because the current withdrawal by Joint Resolution No. 395, Continuing Appropriations for the Fiscal Year ending September 30, 1988, will expire on March 30, 1988. It is essential that these lands be properly authorized and available to the Air Force for the fulfillment of its military responsibilities.

H.R. 1548 - China Lake/Chocolate Mountain

H.R. 1548 would withdraw for 15 years approximately 1,100,000 acres of land within the boundaries of China Lake Naval Weapons Center, and approximately 227,369 acres comprising the Chocolate Mountain Aerial Gunnery Range, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, except for geothermal leasing at China Lake. The lands would be withdrawn for use in military training, research, development, testing, and other defense-related purposes.

Section 3 of H.R. 1548 would require the Secretary of the Interior to publish the legal description of the legislatively withdrawn lands in the Federal Register, to file maps and descriptions with the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs, and to make the maps available for public inspection at specified locations. The Secretary of Defense or Secretary of the Navy would be required to reimburse the Secretary of the Interior for the costs incurred in fulfilling these requirements.

Section 4 of H.R. 1548 would require the Secretary of the Interior to manage the withdrawn lands according to the principles of multiple use as set forth in the Federal Land Policy and Management Act. The lands would be managed to permit continued grazing where it was permitted on the date of enactment, wildlife and habitat protection, predator control, recreation, fire prevention

and control, and geothermal leasing as to the lands withdrawn at China Lake. These uses would be subject to conditions and restrictions necessary to permit the military uses specified or authorized in the bill. The Secretary of the Interior would be required to obtain the concurrence of the Secretary of the Navy before issuing any lease, easement, right-of-way, or other authorization for nonmilitary use.

H.R. 1548 would authorize the Secretary of the Navy to close the withdrawn lands to public use when military operations, public safety or national security require it. Such closure would be limited to the minimum areas and periods required for such purposes.

The Secretary of the Interior would be required, after consulting with the Secretary of the Navy, to develop a management plan for each withdrawn area within 3 years of the date of enactment of the bill. The bill would require the Secretary of the Navy to take precautions to prevent and suppress brush and range fires caused by military activities, and to seek the assistance of the Bureau of Land Management in the suppression of such fires. The Secretary of the Navy and the Secretary of the Interior would be required to enter into a memorandum of understanding to implement the management plan for the withdrawn lands, which would provide for the Bureau to provide fire suppression assistance.

The Secretary of Defense would be required to notify the Secretary of the Interior of any intended military uses other than those specified in the bill, including all scheduling and other information necessary to control nonmilitary uses of the withdrawn lands.

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Section 4(g) of H.R. 1548 would permit the Secretary of the Interior to assign the management responsibilities for the withdrawn lands at China Lake to the Secretary of the Navy for management in accordance with the bill and applicable cooperative management agreements between the two Secretaries. If this assignment were to be made before management plans were prepared, planning responsibility would be shifted to the Navy. The Secretary of the Interior would be responsible for issuing leases and easements affecting both the withdrawn lands and other lands, but only with the consent of the Secretary of the Navy and subject to such conditions as the Secretary of the Navy may prescribe. The bill would require the Secretary of the Navy to prepare an annual report on the status of the natural and cultural resources of the withdrawn lands and submit it to the Secretary of the Interior, who in turn would be required to transmit it to the Congress.

The Secretary of the Navy would be responsible for management of wild horses and burros in accordance with applicable law. The bill would authorize the use of helicopters and motor vehicles for such management.

The bill would not affect the geothermal exploration and development authority of the Secretary of the Navy on the withdrawn lands in China Lake but would require that he obtain the concurrence of the Secretary of the Interior before taking action.

Section 5 of H.R. 1548 would require the Secretary of the Navy to prepare a draft environmental impact statement, no later than 12 years after enactment of the bill, concerning a continuation or renewal of the 15-year withdrawal, and to hold a hearing in California on the draft environmental impact statement. The bill would permit extension or renewal of the withdrawal only by Act or joint resolution of Congress.

Under section 6 of H.R. 1548 the Navy would be required to decontaminate the withdrawn lands throughout the duration of the withdrawal to the extent funds are made available, so that the lands remain at least as clean as they were in fiscal year 1986. The Secretary of the Navy would be required to transmit annually to the Congress a description of the decontamination efforts carried on during the previous fiscal year and proposed for the next fiscal year.

Under section 7 of H.R. 1548, no later than 3 years before the termination of the withdrawal, the Secretary of the Navy would be required to advise the Secretary of the Interior whether or not the Navy will have a continuing need for any of the lands and if so, to apply for the extension in accordance with the pertinent regulations and procedures of the Department of the Interior. If at any time during the period of withdrawal or reservation all or part of the lands are to be relinquished, the Secretary of the Navy would be required to file a notice of such intention with the Secretary of the Interior. Before transmitting a notice of intention to relinquish, the Secretary of the Navy would be required to prepare a determination concerning whether and to what

extent the lands to be relinquished are contaminated with explosive, toxic, or hazardous materials, and to publish the notice to relinquish and the determination about contamination in the Federal Register. If the two Secretaries agree that decontamination is practicable and economically feasible and that the decontaminated land could be opened to the operation of the public land laws, the Navy would be required to decontaminate the land to the extent that funds are appropriated for such purpose. If decontamination is not practicable or economically feasible, the Secretary of the Interior would not be required to accept the lands proposed for relinquishment. The Navy would be responsible for warning the public of the contaminated state of the lands and the risks of entry. The Navy would not be permitted to undertake any activities on the lands after the termination of the withdrawal except to decontaminate them.

The bill would permit the Secretary of the Interior to revoke the withdrawal in the public interest and would require him to publish a notice to that effect in the Federal Register, stating the terms of the revocation.

Section 8 of the bill would permit the functions of the Secretary of the Navy to be delegated. The functions of the Secretary of the Interior could also be delegated, with the limitation that revocation authority could be delegated by the Secretary of the Interior only to the Under Secretary or an Assistant Secretary.

Section 9 of H.R. 1548 would allow hunting and trapping to be conducted on the withdrawn lands as permitted by law on military installations. The bill would also hold the United States and its agencies harmless against liability for injuries or damages suffered in the course of any geothermal leasing or other authorized nonmilitary activity.

Section 11 of H.R. 1548 would make several amendments to the Military Lands Withdrawal Act of 1986. It would amend section 2(c) to change one of the places for public inspection of maps and legal descriptions from Barry M. Goldwater Air Force Base to Luke Air Force Base; amend section 3(a)(3)(A) to make all nonmilitary uses of the withdrawn land subject to such conditions and restrictions as may be necessary to permit the authorized military use of the lands; and amend section 7(a) to require the Secretary of the military department concerned to maintain decontamination activities at the level achieved in fiscal year 1986.

Section 11 also would authorize the Secretary of the Interior to permit the Secretary of the Navy to use public lands in Imperial County, California, known as the El Centro Ranges, until January 1, 1990, for the same purposes and to no greater extent than they were used by the Navy as of July 1, 1987.

It would direct the Secretary of the Interior to complete specified land exchanges concerning the Coachella Valley preserve between the Nature Conservancy and BLM. We believe the language as written may not be adequate to meet the legal requirements for an exception to the preliminary injunction

in the National Wildlife Federation lawsuit. We will be happy to provide suggested language to Committee staff.

Finally, section 11 would require the lands within the Toiyabe National Forest in California that have been used for purposes of the U.S. Marine Corps Mountain Warfare Training Center to be retained as part of that Forest. The Secretary of Agriculture would be required to continue to make the lands available to the Marine Corps for training.

S. 1570--China Lake/Chocolate Mountain

S. 1570 is similar to H.R. 1548 except that it would withdraw only approximately 132,928 acres for Chocolate Mountain. In addition, it would withdraw the land from the mineral and geothermal leasing laws and to the extent provided in section 2, from the mining laws.

Section 2 of S. 1570 contains several provisions relating to mining which are not in H.R. 1548.

- The Secretary of the Interior, with the concurrence of the Secretary of the Navy, would be required to determine which public and acquired lands covered by the withdrawals are considered suitable for opening to the operation of the Mining Law of 1872 and the Mineral Leasing Act for

Acquired Lands of 1947. This determination would be required as soon as possible after enactment of this bill and at least every 5 years thereafter. The lands would automatically be open to the operation of such laws on the date specified by the Secretary in a notice published in the Federal Register.

- Minerals or materials identified in section 3 of the Act of July 23, 1955, whether or not included in the term "common varieties" in that Act, would not be subject to location under the Mining Law of 1872 on lands comprising the China Lake and Chocolate Mountain withdrawals.

- The Secretary of the Interior, with the concurrence of the Secretary of the military department concerned, would be required to promulgate such regulations to implement this section as may be necessary to assure safe, uninterrupted, and unimpeded use of the lands for military purposes. The regulations would be required to contain guidelines to advise mining claimants of what environmental or other requirements would be required on lands opened under this section.

- The Secretary of the Interior, at the request of the Secretary of the military department concerned, would be required to close any lands that have been opened to mining under the Act in the event of a national emergency or for purposes of national defense or security.

- In the event of a conflict between this Act and the mining laws, this Act would prevail.

- All mining claims located under the terms of this Act would be subject to the provisions of the Federal Land Policy and Management Act of 1976 (FLPMA).

- Patents issued under S. 1570 for locatable minerals would convey title to locatable minerals only, together with the right to use so much of the surface as may be necessary for mining purposes authorized under the bill but would reserve to the United States the surface of all lands patented and of all nonlocatable minerals on those lands.

The provisions for mineral leasing and mining are significant provisions which should be included in military withdrawal legislation. We recommend that if H.R. 1548 is enacted it should first be amended to include these provisions.

Section 3 of S. 1570 would require the Secretary of the Interior to manage the withdrawn lands according to the principles of multiple use as set forth in the Federal Land Policy and Management Act. This is similar to the requirements for management in H.R. 1548 but with these differences. The lands would be managed to permit mineral leasing; grazing would not be restricted to where permitted on the date of enactment, and recreation would not be specifically listed as a use.

H.R. 1548 would authorize the Secretary of the Interior to assign the management responsibilities for the withdrawn lands at China Lake to the Secretary of the Navy for management in accordance with the Act and applicable cooperative management agreements. S. 1570 would require the Secretary of the Interior to do so. Further, S. 1570 does not provide for a shift of planning responsibilities to the Navy if the assignment is made before the management plans are prepared. We prefer making the authority discretionary, as H.R. 1548 does.

The requirements for a management plan in S. 1570 are the same as those in H.R. 1548 except that the plan would have to be developed in 5 years rather than 3 years.

As in H.R. 1548, S. 1570 provides for closure of the withdrawn lands to public use when military operations, public safety or national security require it.

S. 1570 contains provisions making the Secretary of the Navy responsible for management of wild horses and burros in accordance with applicable law just as H.R. 1548 does.

H.R. 1548 does not contain a provision relating to water. Section 6 of S. 1570 would provide that the withdrawals established under this Act are not intended to reserve or otherwise withdraw any water for the uses identified in this Act, affect future appropriation under State law, by the United States or others, of water in, under, or upon the lands withdrawn by this Act or affect water rights acquired by the Navy or other components of the Department of

Defense prior to enactment of this Act for use in connection with military operations at China Lake and Chocolate Mountain. This is another significant provision which we believe should be incorporated into military withdrawal legislation.

S. 1570 has the same decontamination provisions as H.R. 1548 but it goes further and provides procedures to be followed if the Secretary of the Interior does not accept jurisdiction over the contaminated lands. These procedures provide that the withdrawal would continue indefinitely and the lands would be managed in accordance with the Act. The Secretary of the Navy, in coordination with the Secretary of the Interior, would be required to determine, beginning 5 years after the relinquishment notice is published in the Federal Register and every 5 years thereafter, whether decontamination of any or all the lands is both practicable and economically feasible. If they conclude that decontamination is both practicable and economically feasible, and that upon decontamination the lands could be opened to operation of the public land laws, including the mining laws, the Secretary of the Navy would be required to decontaminate the lands unless Congress does not appropriate funds for the project. After decontamination and certification by the Secretary of the Navy that the lands are safe for all nonmilitary uses, the Secretary of the Interior would be required to reconsider accepting jurisdiction over the lands.

S. 1570 has the same provisions for revocation, delegation of authority and immunity from liability as H.R. 1548. However, as to immunity, S. 1570 would protect against injuries or damages from mining and mineral leasing activity as well as geothermal leasing activity.

As I've said, H.R. 1548 and S. 1570 are very similar. However, we prefer S. 1570 because it contains many provisions which we believe are essential. I have mentioned them earlier in my statement but will summarize them.

H.R. 1548 would close all withdrawn lands to mineral development except for geothermal leasing at China Lake. Under S. 1570 provision is made for mineral development where that is appropriate. We do not believe that the lands covered by these bills should be closed completely to the operation of the mining and mineral and geothermal leasing laws. We support the approach in S. 1570 which would require the Secretary of the Interior, with the concurrence of the Secretary of the Navy, to open to mining lands within the military installations found to be suitable. Any leases would be issued only with the concurrence of the Secretary of the Navy and the leases would be secondary to the military use of the lands. This is similar to the provisions for mining in other lands withdrawn for military purposes by the Act of November 6, 1986. By allowing mineral development that would not impede the use of the land for military purposes, valuable mineral deposits vital to our Nation's economy and defense could be discovered and developed.

H.R. 1548 authorizes the Secretary of the Interior to assign the management responsibilities and preparation of the management plan for China Lake to the Secretary of the Navy. S. 1570 would direct the Secretary of the Interior to assign those responsibilities. We recommend that the authority to assign management responsibilities be made applicable to Chocolate Mountain. Much of the Chocolate Mountain Aerial Gunnery Range is apparently heavily contaminated and any surface or subsurface use or occupancy would be hazardous. Given this

situation, military management and plan development of that portion of the withdrawn lands intensively used for military purposes would be preferable to BLM management and plan development of that portion of the Range. Our recommendation would give BLM the needed flexibility in determining which lands withdrawn for Chocolate Mountain it should manage, recognizing that there are many instances where it may be more desirable from BLM's standpoint to have the Navy manage at least part of the withdrawn lands. Also, as I said earlier, we recommend that S. 1570 be amended to authorize, rather than direct, the Secretary to make the assignment of responsibilities to the Navy, as H.R. 1548 does.

S. 1570 provides for 5 years to complete a management plan, rather than the three provided in H.R. 1548. We prefer the 5-year period because it allows for a more thorough and professional product. Our experience since enactment of the Federal Land Policy and Management Act has been that 5 years are generally necessary to authorize, program and schedule planning activities.

H.R. 1548 is silent on the issue of water rights. S. 1570 addresses this issue, and we believe this provision is necessary.

H.R. 1548 would provide that the withdrawals would terminate in 15 years rather than 25 years provided in S. 1570. We firmly believe that 25 years is necessary for military withdrawals to allow for a more efficient long-range planning and implementation process.

H.R. 1548 would require the Secretary of the Navy to publish a draft environmental impact statement concerning continued or renewed withdrawal of any portions of the land. S. 1570 does not have this provision. We do not bel eve an environmental impact statement is necessary for existing, continuing military reservations and that all that should be required should be an application by the Secretary of the Navy for extension of the withdrawal in accordance with the regulations and procedures of the Department of the Interior. The withdrawals would remain in effect pending processing of the application and a decision and action on the proposed withdrawals by the Secretary of the Interior and the Congress if the extension application is subject to section 2 of the Act of February 28, 1958. This process is far more efficient and cost effective than the procedures in H.R. 1548.

Section 6 of H.R. 1548 would require a decontamination program by the Secretary of the Navy to the extent funds are made available. This is an ongoing practice and should not be legislated except in connection with the appropriation of funds for that purpose.

We note that portions of the China Lake lands are occupied by the Inyo Brown Towhee, a species of bird recently approved for addition to the Endangered Species list as a threatened species. Two-thirds of its remaining habitat is within the China Lake boundary, and all but 3% of the remainder is on adjoining BLM land. The Fish and Wildlife Service advises that the testing activities at the Weapons Center as currently conducted do not appear likely to impact the birds. We are working with the Navy, in consultation with the

Fish and Wildlife Service, to develop and implement a recovery plan for this species and to develop a cooperative management program for the Inyo Brown Towhee's habitat.

There are several technical amendments that should be made to S. 1570.

Further, we suggest repeal of the current law that originally withdrew Chocolate Mountain and the revocation of several land orders relating to the withdrawn areas. On enactment of this legislation, they would no longer be necessary.

In summary, although we have no objection to H.R. 1548 as far as it goes, we strongly support the enactment of S. 1570 because we believe military and non-military objectives at China Lake and Chocolate Mountain could be met more effectively and efficiently by the enactment of provisions of that bill.

This concludes my statement. I will be pleased to any answer any questions you may have.

Senator HECHT. Thank you. I just have a few short questions.

First, Mr. Rittenhouse, Groom range is now under a temporary withdrawal. Without getting to the classified realm, what would be the implication for the Air Force should Congress not act to withdraw this land by the end of this month?

And what are the implications, should the withdrawal not be made permanent?

Mr. RITTENHOUSE. The implications are very serious. Without getting into the classified matter, to which you, Mr. Chairman, allude, we have operations which would have to cease if the public were allowed into that property.

It would have to cease for the duration of time the public were there. It would cost the taxpayers a considerable amount of money, and would be extremely detrimental to our national defense effort.

Senator HECHT. Thank you. Whenever I am in Caliente, Nevada on my annual chat with Chic Tours around Nevada, the issue of paving the road from Rachel to the Nevada Test Site always comes up.

What plans does the Air Force have for paving this road?

Mr. RITTENHOUSE. Mr. Senator, we have in our mitigation statement, in the record of decision and the environmental impact statement process, committed ourselves, once the statutory provisions are enacted, to upgrade some 43 miles of roadway to a type II gravel bed surface at the cost of about $5.5 million.

That would start as soon as we get the legislation. Of course, you understand, it is impossible for us to expend funds as a prudent manager of taxpayers' money until we have some assurance that we are going to have a useful application for it.

Senator HECHT. Very well said. How will the Air Force work with the Test Site workers to ensure proper access and notification of access hours?

Mr. RITTENHOUSE. Well, currently we have a situation whereby the workers can phone in to a telephone number that is manned continually.

And also there is a process when they are on the site itself to be apprised of the hours where they cannot make transit. And our experience is that that situation is working quite well and is currently in place.

Senator HECHT. Thank you. The Air Force and the Sheehan family have been negotiating an agreement to address a situation surrounding their mine.

Can you give us some insight into how these discussions are proceeding?

Mr. RITTENHOUSE. Yes, sir. We met with the Sheehan family here in Washington back around October of last year.

As a result of that meeting and subsequent conversations that have been held by myself, as well as our representative from the general counsel's office, the Sherhan family and their attorney, we have an agreement whereby the original appraisal will be reevaluated by a gentleman who was selected by the Sheehan family from a list of approved appraisers that was provided by the government.

The gentleman's name is Mr. Godbey, I believe. And unfortunately, Mr. Godbey has undergone some serious medical problems and is currently, to my understanding, hospitalized.

The Corps of Engineers has indicated that their best estimate of the reappraisal will be sometime in the middle of next month, middle of April. Of course, it depends on Mr. Godbey's discharge from the hospital.

He had completed essentially much of his work. But unfortunately, his illness precluded him from finishing his report.

Senator HECHT. That you. What is the status of the land use planning effort between BLM and the Air Force and Nellis in regard to mineral access?

This was a provision of the last military land withdrawal bill, Public Law 99-606.

Mr. RITTENHOUSE. For some of that answer, I think I will defer to may eminent colleague from BLM, the Director.

But essentially, our understanding is that a draft memorandum of understanding has been exchanged between the Department of the Air Force and the local BLM representatives. Is that correct, Mr. Burford?

Mr. BURFORD. That is correct.

Seantor HECHT. You may have time to have your staff give us an answer on that.

Mr. BURFORD. We will answer that in more detail for the record.

[Subsequent to the hearing the subcommittee received the following:]

FROM THE DEPARTMENT OF THE INTERIOR

Nellis Air Force Base, the Las Vegas District Office of the Bureau of Land Management, the United States Department of Energy, the United States Fish and Wildlife Service and the Nevada Department of Wildlife have had a memorandum of understanding for many years which has served as a forum for communication among the agencies and an opportunity for discussion of issues of interest to all of them. When Public Law 99-606 was enacted that group was used as a forum to discuss what the law required and how to implement it. That was done. The group agreed to use the Bureau's Resource Management Plan, modified, as the process to be followed. The Bureau, in this year's Annual Work Plan, committed a planning team and money to do what was agreed upon. The issues have been scoped and identified and a pre-planning draft analysis has been developed. BLM's Nevada State Director and the Commander of Nellis Air Force Base have been briefed. These are the standard first steps. The next step in the planning process is the publication of a notice intent to conduct a plan. We intend to publish the notice of in the Federal Register in the near future.

FROM THE U.S. NAVY

A preplanning analysis has been completed by the cooperating agencies using the processes contained in the existing resource management plan. To follow is notice in the Federal Register, scheduled for April 10 of this year, that will advise of the intent to develop what will be termed the "Public Law 99-606 Nellis Management Plan." This plan will address non-military uses of the range and determine if mining and related activities are compatible with its military uses.

Senator HECHT. Give us a complete answer on that within the 2 week period.

And for Mr. Roth, is there an operational buffer in the Chocolate Mountain gunnery range? And is the area of mineral interest in what buffer zone?

Mr. ROTH. I would assume that you are referring to a specific area of mineral interest, Mr. Chairman?

Senator HECHT. Yes; you can take time and give me an answer on that, and I will submit it for the record, unless you can respond off the top of your head.

Mr. ROTH. General Downs might be prepared to address that.

General DOWNS. I would have to be clear as to what mineral area we are talking about.

Sanator HECHT. It is the southern area to the buffer zone.

General DOWNS. Clearly, we do have buffer zones, as we would around any range, and in particular those that are used for air delivery. And we need them, from a safety point of view.

Just as a point of interest, on a fast-moving aircraft, it takes 5 minutes to go from the northern part of that range to the south, and on the east-west axis about 2 minutes.

So there is not a lot of flexibility there. But we do have a buffer zone where we do not purposely place an ordnance in our operations at this time.

Clearly, there is, if I have looked at the individual sites, there is potential for arrangements to be made in the periphery of the Chocolate Mountain ranges. Once we get very far into the range boundaries, we have great difficulty in mineral activities.

Does that help, sir?

Senator HECHT. Yes, that helps some. But some of these areas at the end of a buffer zone, where it is not, the planes are going up, mining might be compatible in that area. Is that a possibility?

General DOWNS. It is not a matter of what the planes are doing as much as it is what is being done when the ordnance is coming off the plane, and we do not just use the range on specific axes.

In fact, the great benefit of that range is its ability to be adapted to any number of scenarios and to permit pilots and in fact air units, flight units, to practice and train in a variety of circumstances.

So we fly from north to south, from south to north, east to west. So the issue is not the planes, the issue is the ordnance, and we think it important to ensure that if minor errors in delivery are made, that we have sufficient buffer so that even then nobody would be potentially harmed.

Senator HECHT. We will submit specifically the exact areas, because we have some interest in certain areas. And we will introduce this to you after this hearing, and then you can comment on each specific area.

General DOWNS. Yes, sir.

[Subsequent to the hearing the subcommittee received the following:]

DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
WASHINGTON, D.C. 20380-0001

IN REPLY REFER TO
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LFL/B-026
6 APR 1988

The Honorable Chic Hecht
United States Senate
Room 302, Senate Hart Office Building
Washington, D.C. 20510-2801

Attention: Dennis A. Parobek

Dear Senator Hecht:

Pursuant to direction from Mr. Parobeck of your office, attached is the Marine Corps' response to your question for the record at the Subcommittee on Public Lands, National Parks and Forests hearing on S. 1570 and H.R. 1548 on March 17, 1988.

I respectfully request that you take such action as is needed to incorporate this answer into the transcript of that hearing.

Should you need further information, please feel free to contact me.

Sincerely,

Michael P. Downs

MICHAEL P. DOWNS
Brigadier General, U.S. Marine Corps
Director, Facilities and Services Division
Installations and Logistics Department

CHOCOLATE MOUNTAIN AERIAL GUNNERY RANGE WITHDRAWAL

QUESTION: Is mining compatible in the buffer zone of the Chocolate Mountain Aerial Gunnery Range?

ANSWER: Mining is not compatible in the "buffer zone" of the Chocolate Mountain Aerial Gunnery Range.

In general, range safety considerations dictate that safe separation distances be determined to ensure, to a reasonable degree of certainty, that the explosive effects of our aerial-delivered ordnance are contained within Range boundaries. The actual extent of this so-called "buffer" is based on the bursting radii of the air-to-ground ordnance utilized and the flight ballistics of the air-to-air ammunition. Target placements have been set and Range use parameters established to permit the most realistic and flexible Range use while assuring the public safety.

This "buffer zone" thus provides two primary benefits. One is to allow for safe separation between persons on the ground outside our Range boundaries and the effects of the aerial training operations authorized while the other is to facilitate the unrestricted, realistic training that most nearly simulates actual combat. The presence of anyone on the Range would force the Marine Corps to place restrictions on our air operations and degrade training opportunities to an unacceptable level.

Another, though secondary, purpose of the "buffer" is to provide, to the degree possible, an acoustical screen between the training activities and the adjacent areas.

While, due to the deviation between the various points of impact, ricochet and danger areas and the jagged boundary line, there may be some small areas on the perimeter of the Range which are less affected by the foregoing considerations than others, in general, the presence of any personnel or the building of any structure is incompatible with the nature of the Range.

The Chocolate Mountain Aerial Gunnery Range is an irreplaceable defense asset. With the increasing sophistication of the threat, the demand for the type of training available on the Range becomes greater. The current boundaries of the Range already represent severe constraints on training due to the technological capabilities and speed of today's aircraft. The present confines of this Range constitute the minimum space requirement necessary to accomplish the essential and critical air combat training so crucial to our national defense preparedness.

Senator HECHT. Because of the nature of these two areas, and by the fact that this is an open hearing, I do not wish to pursue it with any further questions. We have another panel coming up, unless any of you have anthing else that you might like to say?

I appreciate, Mr. Rittenhouse, the fact that you say how important this is and how we have to get to work on this immediately. And I certainly share your viewpoint, and you have my word that we will move as frantically as we can on this particular piece of legislation.

Mr. RITTENHOUSE. Thank you, Mr. Chairman.

Mr. ROTH. Mr. Chairman, may we make one statement for the record?

Senator HECHT. Of course.

Mr. ROTH. Captain Burt of China Lake would like to address one issue that Senator Wilson raised.

Captain BURT. Senator Wilson brought up a recommended amendment from the Los Angeles Division of Water and Power.

I believe that that amendment is unnecessary. We currently have a working MOU with the Bureau of Land Management, under which the Navy manages the property where the geothermal leases are located.

It is working well. We have one company working there on the surface of the ground now. They seem to be able to live with our management. It is necessary for us to maintain control of the surface area of the properties so that we can do our scheduling for our range activities.

Senator HECHT. Would you please respond in writing, then, to Senator Wilson?

Captain BURT. Yes, sir.

Senator HECHT. Thank you very much.

[Subsequent to the hearing the subcommittee received the following:]

DEPARTMENT OF THE NAVY
NAVAL FACILITIES ENGINEERING COMMAND
200 STOVALL STREET
ALEXANDRIA, VA 22332-2300

1 APR 1988

The Honorable Dale Bumpers
Chairman, Subcommittee on Public Lands,
National Parks, and Forests
Committee on Energy and Natural Resources
United States Senate
Washington, DC 20510

Dear Senator Bumpers:

On March 17, 1988, the Senate Subcommittee on Public Lands, National Parks, and Forests held hearings concerning S. 1570 and H.R. 1598, bills which propose to withdraw certain public lands in California for use by the Department of the Navy for the Naval Weapons Center, China Lake and the Chocolate Mountain Aerial Gunnery Range. During the hearings, Senator Wilson, the sponsor of S. 1570, introduced into the record a letter he had received from the California Energy Commission (CEC) proposing an amendment to the bill. The Navy is concerned with the proposed amendment because we believe it would unnecessarily interfere with the Navy's mission at China Lake and create a precedent for subjugating federal lands to state regulatory powers.

As proposed, the amendment would add a new Section 4(g) to S. 1570 and provide that "Geothermal resource development within China Lake Naval Weapons Center shall be subject to state permit authority." According to the CEC, the purpose of this amendment is to "clarify the application of state environmental laws to energy projects at China Lake."

Our first concern stems from the vague yet potentially sweeping, nature of the amendment. The amendment does not identify which permit(s) in the myriad of California regulatory law are intended to apply to China Lake nor does it provide for resolution of any conflicts with current federal law. Further, the meaning of the term permit authority is unclear, e.g., does it refer to mere procedural compliance or true substantive authority over the actions of the Navy at China Lake. For this reason alone, the amendment should not receive favorable consideration.

Please be assured that the Navy shares CEC's concern for the environment. The Navy consistently strives to comply with applicable federal, state, and local environmental laws and will continue to do so. We are concerned that the proposed amendment will unnecessarily subject the Navy to a host of California environmental programs and requirements. It should be noted, that the Navy already complies with those California environmental programs that fall within the scope of the various waivers of federal sovereign immunity. Throughout the history of

environmental law, Congress has time and again considered the need to provide states with environmental regulatory authority over federal activities. The result is seen in the numerous waivers of sovereign immunity brought about by federal environmental laws such as the Clean Air Act, the Clean Water Act, and the Resource Conservation and Recovery Act. Each of the protections discussed by CBC is more than adequately covered by federal law, e.g., the federal list of endangered species is only completed after a lengthy process which invites and encourages state, local, and public participation.

Our final concern is that the true impact of this amendment, if passed, would not be limited to China Lake or the Navy but will extend to all federal agencies and activities. In all likelihood, this would be a precedent for many such amendments initiated by states which seek to regulate the activities within their borders under the guise of environmental concern. If enacted, such amendments would severely curtail the Navy's participation in the development of geothermal resources.

We hope this letter helps you to understand the Navy's position on the proposed amendment.

Sincerely,

A. J. ROTH
By direction

DEPARTMENT OF THE NAVY
NAVAL WEAPONS CENTER
CHINA LAKE, CALIFORNIA 93555-6001

IN REPLY REFER TO
5730
Ser 003/3847
29 Mar 88

The Honorable Dale Bumpers
United States Senate
SD-229 Dirksen Senate Office Building
Washington, DC 20510-0401

Dear Senator Bumpers:

As requested by Senator Chic Hecht at the March 17, 1988, hearings on S. 1570 and H.R. 1548, I am writing to express my concerns about the amendments to these two bills proposed by the Los Angeles Department of Water and Power (LADWP) and to solicit your support in retaining the present wording of sections 3 and 4 of S. 1570 or of section 4 of H.R. 1548.

In a March 16 meeting with Navy representatives, LADWP stated they were suggesting amendments because they believe the current structure of the bill will complicate the development of their present geothermal leases on China Lake. They are concerned the required involvement of two federal agencies will be confusing and inefficient. The proposed amendments would severely limit the Department of the Navy's involvement in the administration of geothermal operations on China Lake lands.

As presently written, both S. 1570 and H.R. 1548 permit the Secretary of Interior to continue to assign management responsibility of the China Lake lands and nonmineral resources to the Navy. This recognizes the strong and positive cooperative management arrangements evolved over several years between the Bureau of Land Management (BLM) and China Lake. These practices, similar to arrangements between BLM and other agencies such as the Forest Service, are working extremely well, have proven to be an effective and efficient way to exercise appropriate government management responsibilities, and are, thus, in the public's best interest. Continuation of these proven management practices is desirable for the sake of efficiency and consistency as well as for the protection of the military mission of the Naval Weapons Center.

I believe LADWP's concerns about administrative confusion and inefficiency are unfounded. As previously mentioned, the bills basically allow the Navy and BLM to continue cooperative management arrangements already in place, and there have been no indications the other geothermal leasees have found these cooperative administrative arrangements troublesome. In fact, the one leasee other than LADWP that has been very actively developing its lease has been very vocal about its satisfaction with the in-place administrative arrangements.

The Navy and BLM are anxious to work with LADWP to alleviate their perception that the bill, as now structured, will be cause for confusion and administrative inefficiency. Accordingly, a meeting has been scheduled with the Navy, BLM, and LADWP on April 6, 1988. This meeting should be a most positive step toward resolving LADWP's concerns and in assisting them to work efficiently with the system that is in place.

I sincerely hope this helps clarify the Navy's position on the proposed amendments. A similar letter, as requested by Senator Hecht, is being sent to Senator Pete Wilson, sponsor of S. 1570.

Sincerely,

J. A. BURT
Captain, U.S. Navy
Commander

Mr. BURFORD. I think, Senator, that the Los Angeles Water and Power would probably like to respond and explain the reasons for their request on the amendment.

Senator HECHT. OK.

Mr. BURFORD. They have called me about it. I do not feel confident to answer it myself. But I think they would like to have a chance to answer.

Senator HECHT. OK. Do you not like it when a businessman conducts a hearing rather than an attorney? You get out fast, Bob.

Mr. BURFORD. You are right. Thank you, Senator.

Senator HECHT. Let us have the next panel coming up here. Courtland Lee, T.C. Osborne, and Dale Zimmerman.

OK, first on the panel, Mr. Courtland Lee. And as before, I ask that if you have a prepared text it will be made a part of the record, and I ask you to summarize.

STATEMENT OF COURTLAND LEE, CONSULTING GEOLOGIST, MINERALS EXPLORATION COALITION

Mr. LEE. I will do that, summarize very quickly. I represent the Minerals Exploration Coalition, which are about 40 mining companies involved in mining.

And in order to hurry through this, I would like to go to the back of the text. There are four basic charts which I think are necessary in order to make our presentation.

In the first chart, we show an extremely valuable area for gold, prospective gold interest in the bottom of Chocolate Mountain. And I think how important it is, as the second largest producer in the United States, it is just right outside the boundary.

It is an area of old gold production. There are a number of mines that go all the way through and up into the Chocolate Mountains.

We had one company that showed an area of high interest as far as 10 miles within the Chocolate Mountain range itself. But this area, we shrunk it down to an area of what we would call very high interest.

On the second chart, I would like to show the dilemma facing the exploration industry in the United States. We come here, one side saying this is an area of extreme interest but the industry is very depressed at the current time.

But I might remind the committee, the mining industry is one of boom and bust, as you in Nevada well know. And in times of boom, which are basically shortage and crisis, when you lock up land as these military bases do for a period of 25 years, you are basically saying that nothing will occur in that 25 years where we will need to get at those resources.

And I believe the mining language that is attached to these two bills does provide a legislative mechanism in case of a crisis.

On chart 3 I would like to bring to the attention of the committee the proposed desert legislation, which includes almost nine million acres of wilderness, which is part of S. 7, I believe.

Now, we also show on here the military bases. Now, the point we like to make is that the areas that will be opened, if this proposal is adopted, will be class M and class I. And if you look at the vari-

ous charts, it is a very small fraction of the entire California desert.

And if you flip over the page you can see where the past mineral occurrences have taken place. And a lot of them are in the lands that are designated parks, wilderness, national parks, State parks, State and Federal wilderness, in these areas to be.

And I think that if you look, you will see where the military bases are, you will see gaps in the dots. And that is simply because for the last 50 years nobody has been allowed to look or produce for minerals. And you can clearly see how withdrawal affects potential mineral production.

And finally I would like to point out on chart 4, from the EIS at China Lake, the areas of known contamination. I think that, on the contamination issue, I think that there is a possibility that access could be contingent upon mining paying for decontamination.

And last I would like to draw attention to the fact that we do not want to say the Groom Mountain addition, Nellis, which is about 90,000 acres, we do not think it is appropriate to apply mining language to that because of the security.

But we would like to draw attention to the fact that the Goldwater Air Force range, which comprises about 2.7 million acres in southern Arizona, has many prospective areas for strategic and critical minerals.

And adding this language that is in S. 1570 would assure that adequate land use planning would exist, should a crisis arise.

And I think that, I would also like to draw to the attention of the committee the 1987 Secretary of the Interior's report under the Minerals Policy Act, which includes many things, amongst which are the vast amount of land withdrawals that exist on all other Federal lands, including 90 percent of the three areas that are mineralized and they studied in Alaska. Ninety percent of those areas are unavailable, or severely restricted to locatable minerals.

[The prepared statement of Mr. Lee follows:]

STATEMENT OF

MINERALS EXPLORATION COALITION

ON S. 1570

CALIFORNIA MILITARY LANDS WITHDRAWAL ACT

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

MARCH 17, 1988

I am Courtland Lee and am speaking today on behalf of the Minerals Exploration Coalition (MEC). The Minerals Exploration Coalition represents nearly forty mining companies as well as individuals with interests in exploration for hard rock minerals, primarily strategic and critical minerals, as well as precious metals.

We appreciate the opportunity to appear before you today to address the issue of military land withdrawals and the relationship of these withdrawals to potential mineral supply. We have corresponded with this Committee on the importance of holding these hearings and applaud the Committee for taking the effort in a hectic schedule.

Senate Bill S. 1570 includes language much like the language adopted in PL99-606. This language was added to the original bill S. 2412 by amendment that was approved by an overwhelming vote in the Committee on energy and Natural Resources. MEC applauded this pioneering land use legislation and would like to support the similar language as set out in S. 1570. It is important that the potential mineral resources be available to the nation while at the same time measures can be taken to protect the primary military mission on that land by withdrawing it for military purposes. We think the language in S. 1570 goes a long way toward meeting this goal.

However, at the southern edge of the Chocolate Mountains Gunnery Range is a small amount of land that we think possibly

should not be withdrawn even under the S. 1570 landguage. The area in question contains several mines with past production, has exceptionally high geologic potential for future gold production and is immediately adjacent to one of the major gold producing areas in the United States. When these bases were originally withdrawn, gold was $35/ounce, now it sells for around $450/ounce. Because of its situation we ask that priority attention be given to the area, either by excluding it from the withdrawal or making it accessible as soon as possible under the terms of S. 1570. Possibly the span of time allowed for making the studies prior to granting access should be shortened from 5 to 3 years.

Within the rest of the Chocolate Mountains there are other areas also with high potential for tungsten and gold as shown on the attached geologic map. It would be appropriate for these other areas of geologic interest to remain within the military withdrawal and be covered by the language of S. 1570. We do feel this one area is of such immediate interest that it should be decontaminated and removed from the withdrawal. Perhaps this could be done at the expense of the mineral users. We understand this area is in a buffer zone, and we do not necessarily think this area needs to detract from the overall military mission.

Both public domain and any interspersed acquired land, should then be opened by an orderly procedure fair to all interested parties. I might add this area has such high

interest that it is unique among all the military lands MEC has been involved with. The attached geologic map shows the trend of the geologic structure controlling the gold mineralization trending northwest into the gunnery range far beyond the area we are recommending to remain outside of the withdrawal.

It is worth noting that in spite of the high interst in this area south of Chocolate Mountains overall the hardrock mineral industry is still very depressed based on historical levels of activity. I would like to refer you to the attached chart showing the drilling demand based on Bureau of Mines data since 1969. Last year the activity reversed the downward trend and picked up a bit although we do not yet have the data. This gap in exploration during the middle 1980's could be a harbinger of future shortages caused by the lack of new mine production. This may also partially explain why large fluctuations in metals prices appear from time to time.

The overlay to this chart indicates the rate of consumption of six metals since 1969. These six metals represent a cross section of precious and base metals and include copper, gold, molybdenum, tungsten, and silver. You can see from the data that overall consumption of most metals, which includes imports, has remained relatively constant in a time of severe hardship for U.S. basic industry. During this same time the domestic search for new mineral supplies basically collapsed. This is a good indication of the recent condition of the domestic mineral

exploration industry. It is also a foreboding indication of this country's future ability to supply key mineral commodities. The impact of this situation may not be felt in the near future as long as we are able to import inexpensive minerals from other nations. However, it is probable that the United States will not always be able to afford this luxury and there may be significant long term costs. The costs of mineral import dependency can impact policy as shown, for example, by our strategic minerals dependency on Russia and South Africa and our whole experience with the Arab oil situation. If the mineral industry is allowed to continue its decline, it may soon reach a point where it will not be able to respond quickly, if at all, to future domestic demands. We need access to our mineralized lands, some now withdrawn, to improve our competitiveness and assure future domestic mineral production. Each drop in the relative value of the dollar increases the cost of imported raw material, and affects the overall trade and competitiveness position of the United States. We need every bit of new domestic mine production of every mineral commodity to reduce the amount of U.S. imports.

Access to withdrawn military lands for the purpose of exploring for an producing hard minerals could, to some degree, improve this situation hopefully without disrupting the military mission which is also important. It is worth noting that the geothermal power developments at China Lake actually reduce the

Navy's dependence on external power sources and improve their emergency capabilities.

There are a number of interrelated factors that have been responsible for the depressed condition in the minerals industry. Low metal prices in the international market, the high value of the dollar which persisted until recently, higher operating costs in the United States as compared to other minerals producing nations, have all been partially responsible. However, there is another factor that is very important and that is the amount of mineralized public land available for mineral exploration. Without availability to the resource the domestic mining industry can not prosper. Among those lands unavailable to the industry are military lands, with the important exception of those lands potentially available under PL99-606. Overall somewhat in excess of 50% of all public land is currently unavailable to exploration under the mining law. These massive withdrawals have been made for many reasons, not all for environmental concerns, as for example, military lands, utility corridors, and petroleum reserves.

I would like to call your attention to Chart 3 showing what lands would be available to mining under the 8.8 million acre Southern California Desert proposal. Only [Class M] and [Class I] labeled BLM moderate and intensive use categories would likely allow hardrock mineral exploration and development. As you can see from the chart this is only a small fraction of

the federal land base. What remains open is determined by other competing land uses and is not determined by potential mineral production or even geologic probability. China Lake, Chocolate Mountains, and other military lands are a significant portion of remaining lands that might be available for exploration. Note the voids in mineral locations in the Southern California Desert correspond with the locations or Military Bases, Chart 3a.

Chart 4 [Figure A-5] has been taken from the China Lake EIS and clearly shows which areas have known contamination. It appears to be roughly 30% of the base. We were unable to obtain similar information on Chocolate Mountains so we will assume a comparable ratio. Outside of these areas of known contamination there are many areas favorable for hardrock exploration. Should cooperation with the military unit with the primary mission on these lands be achieved it should be possible for a win-win situation. The environmental assessments for both China Lake and Chocolate Mountains deal with a variety of useful hardrock minerals that might be produced from those lands including gold, tungsten, lead, silver, manganese, and clays. This is not to say that other important strategic and critical minerals might not be found there including minerals potentially needed for the experimental superconductors.

This Committee cannot effect mineral prices, the value of the dollar, or operating costs. The Committee can, however, address the important issue of access by opening up those

portions of military lands found compatible with the military mission to selective mineral exploration and development.

In conclusion many of these lands were set aside nearly half a century ago. Many show very favorable indications of potential commercial ore deposits. Any new production would successfully offset imports and improve the security of the United States. At one time the major justification for the Navy's budget was to keep the sea lanes open for critical minerals and materials.

In response to mutual concerns, compromise legislative language was adopted in PL99-606 S. 1570 contains similar language and MEC gives it our strong support with the possible exception of an area in the southern part of the Chocolate Mountains. This area, we believe, deserves special attention to assure access by removal from the withdrawal or by priority treatment to grant access in the near future. We will continue to work with the Department of Defense and Interior Department in a spirit of cooperation to develop methods for mineral exploration access to military lands.

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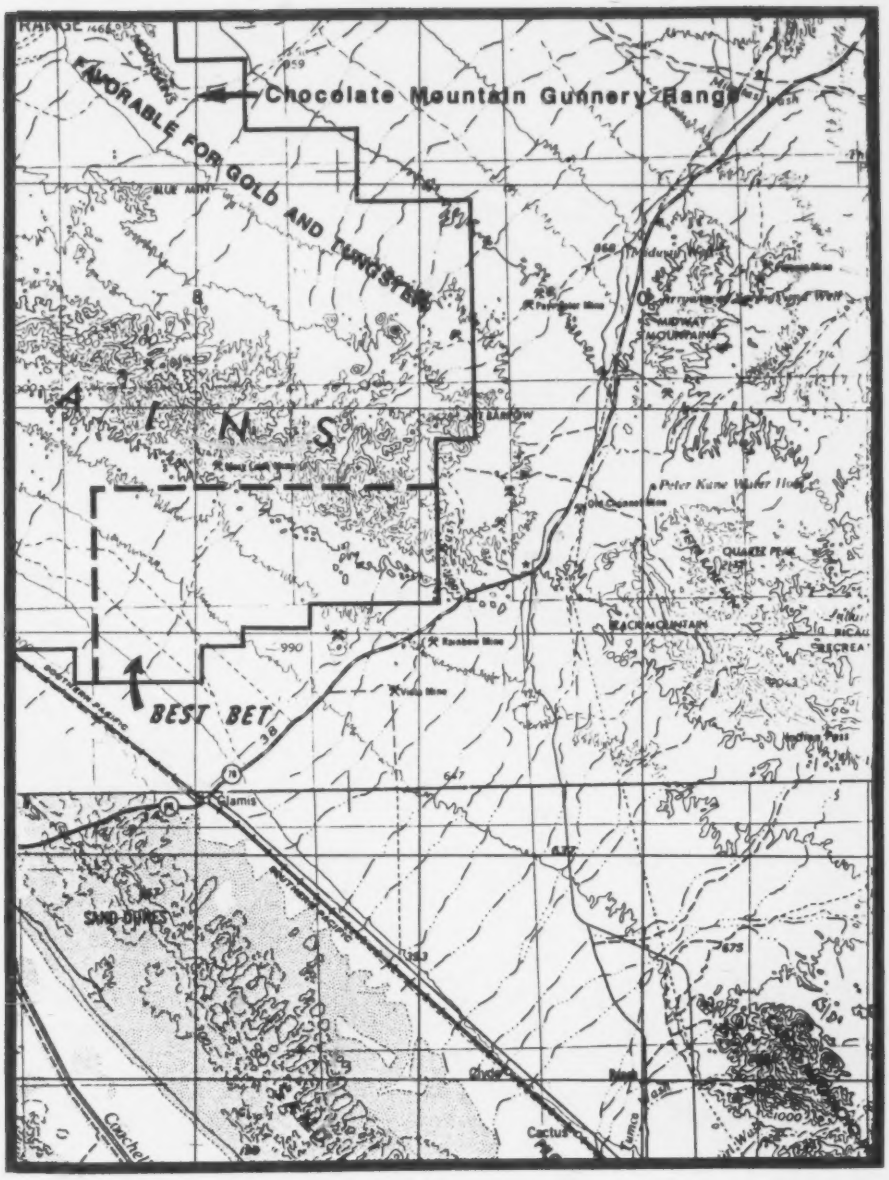
Chart 1


Chocolate Mountain Gunnery Range
FAVORABLE FOR GOLD AND TUNGSTEN
A I M S
BEST BET
Glamis
SAND DUNES
Cactus City
Peter Kane Water Hole
Rainbow Mine
Midway Mountains
Black Mountain
Orocrea

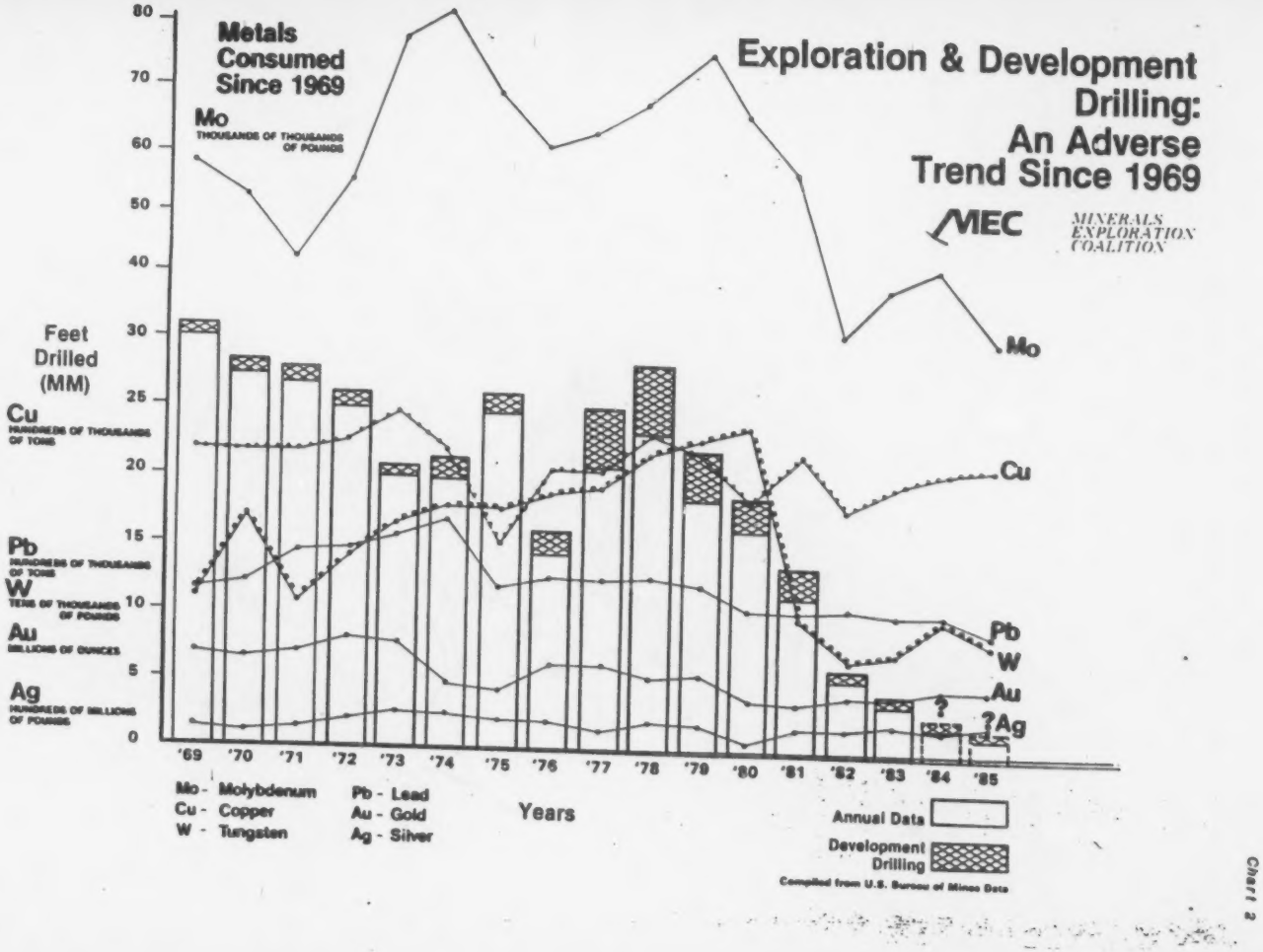

Metals Consumed Since 1969
Exploration & Development Drilling: An Adverse Trend Since 1969
MEC
MINERALS EXPLORATION COALITION
Mo
THOUSANDS OF THOUSANDS OF POUNDS
Feet Drilled (MM)
Cu
HUNDREDS OF THOUSANDS OF TONS
Pb
HUNDREDS OF THOUSANDS OF TONS
W
TENS OF THOUSANDS OF POUNDS
Au
BILLIONS OF OUNCES
Ag
HUNDREDS OF MILLIONS OF POUNDS
80
70
60
50
40
30
25
20
15
10
5
0
'69 '70 '71 '72 '73 '74 '75 '76 '77 '78 '79 '80 '81 '82 '83 '84 '85
Years
Mo
Cu
Pb
W
Au
?Ag
Mo - Molybdenum
Cu - Copper
W - Tungsten
Pb - Lead
Au - Gold
Ag - Silver
Annual Data
Development Drilling
Compiled from U.S. Bureau of Mines Data

Chart 2

Chart 3

PROPOSED DESERT LEGISLATION

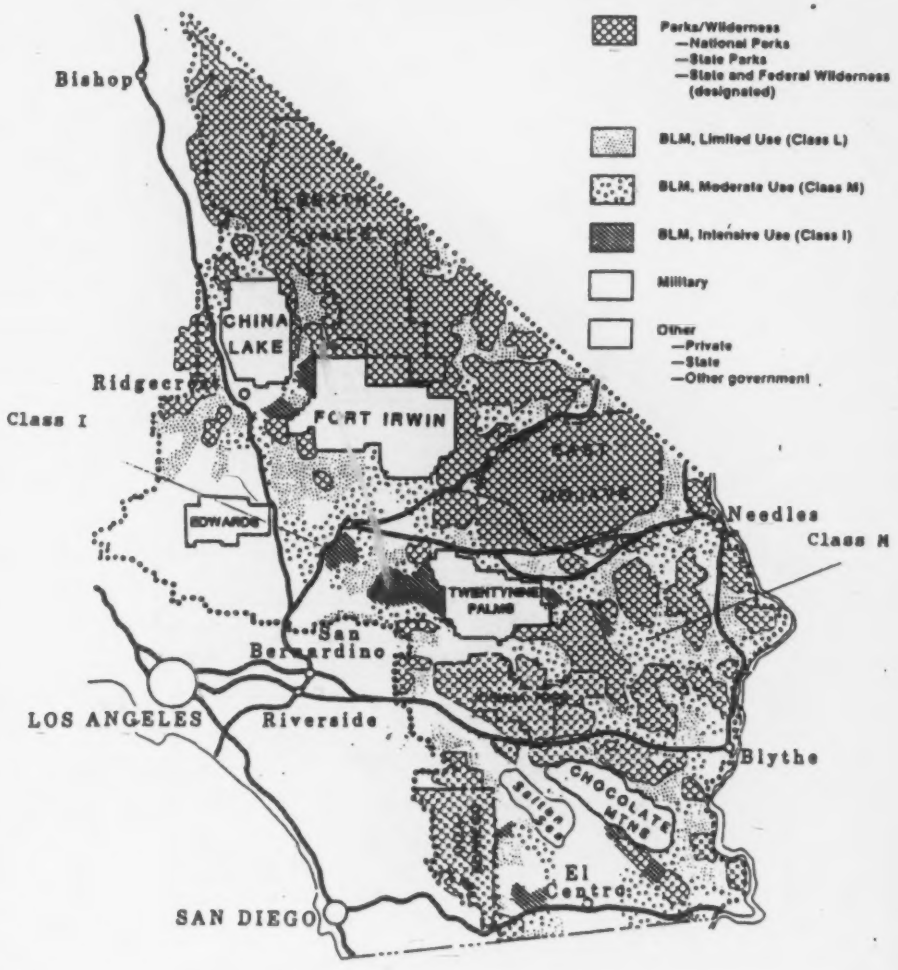
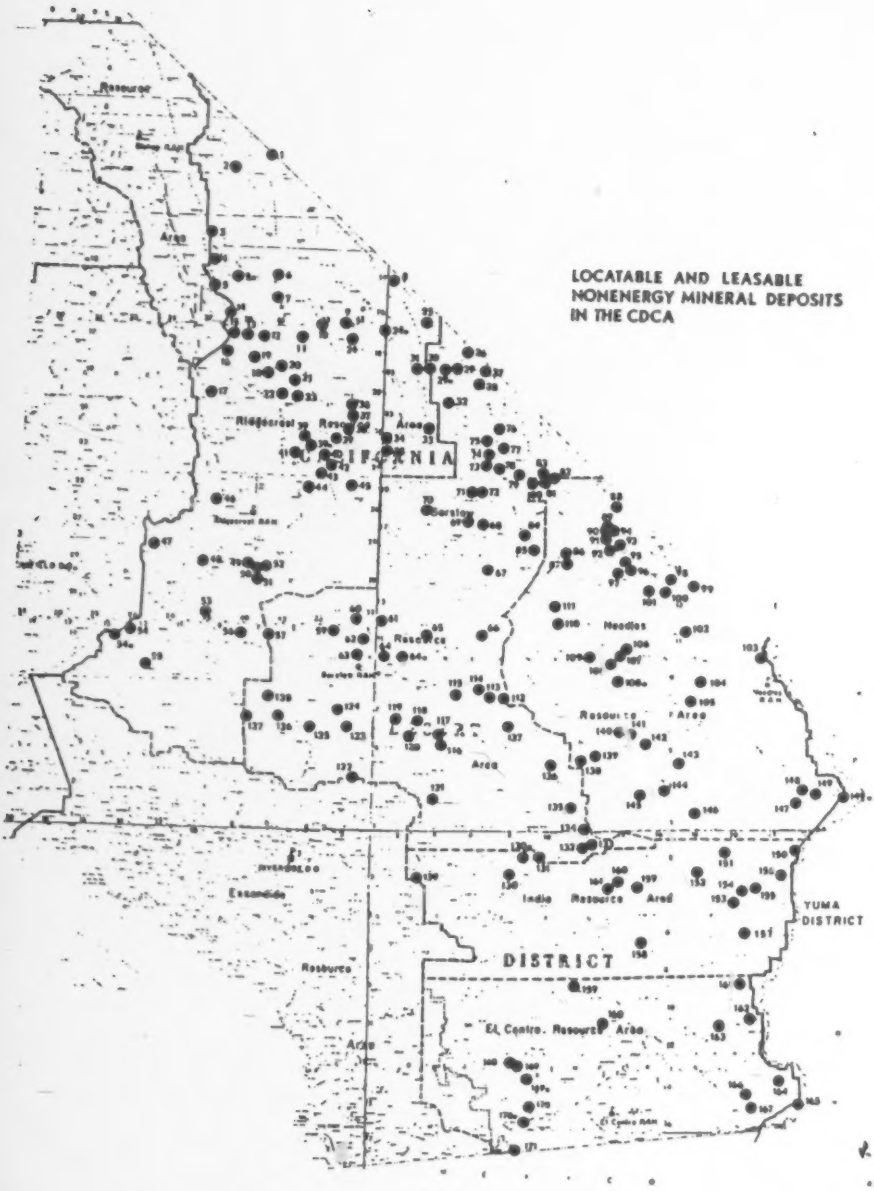


Chart 2

Chart 3A


LOCATABLE AND LEASABLE
NONENERGY MINERAL DEPOSITS
IN THE CDCA
Needles
Indio
YUMA
DISTRICT
DISTRICT

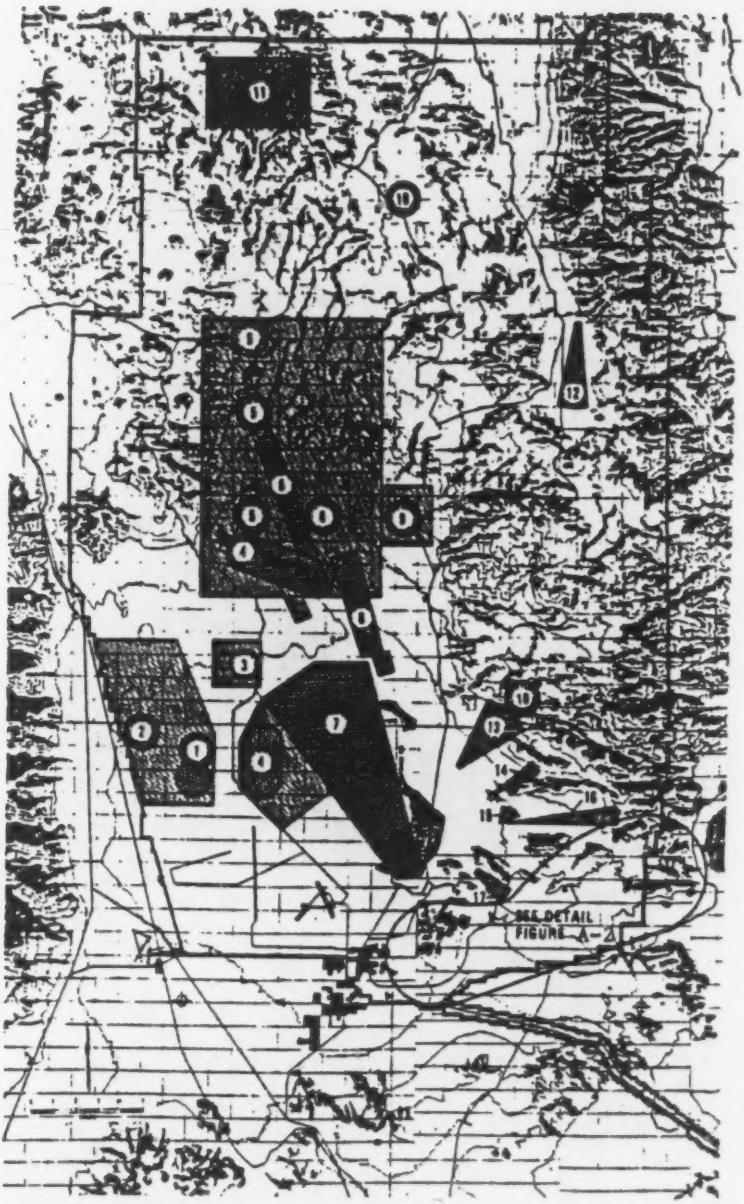


FIGURE A-1. Areas of Known Contamination, China Lake Complex.

BLUE MTNS
SOUTHERN PACIFIC
BEST

Senator HECHT. Thank you very much.

Mr. Osborne. You had a substitute sitting in there for you for a while. We are happy to listen to both of you. He is a good substitute.

STATEMENT OF T.C. OSBORNE, EXECUTIVE VICE PRESIDENT, ASARCO, INC., AND MEMBER, AMERICAN MINING CONGRESS PUBLIC LANDS COMMITTEE

Mr. OSBORNE. He is an excellent substitute. He may be a better substitute than the first string. I apologize for being late.

Thank you for this opportunity. My name is Thomas Osborne. I have been involved in hard rock exploration and mining all my life, and I am now an executive vice president of ASARCO, Inc.

And as you likely know, I am appearing today on behalf of the American Mining Congress, and its Public Lands Committee, of which I am a member.

I was told that my allotted time for an oral statement is 3 minutes. For once, that is going to be easy to do and easy to stay within that limit.

That is because when Senator Pete Wilson introduced S. 1570, by fortunate coincidence, he put into his own words in plain English exactly what I would like to say to you today. And I am quoting now from the Record.

> Although we cannot know what is out there until the miners are given a chance to do their exploration work, we do know that gold, silver, tungsten, and other valuable minerals have been found throughout this section of California.
>
> It makes sense to allow these minerals to be extracted if it can be done in such a way as not to impair the military mission of China Lake and Chocolate Mountain.

This is the end of the quote. Now that just took 20 seconds. If anyone every tries to tell me that U.S. Senators are universally and an unnecessarily verbose lot, I will cite in your collective defense that senatorial example of getting the essence of a complex issue into a few words.

I made my point my quoting from the Congressional Record. I suppose I should probably quit while I am ahead and stand down. But having my hand on the control of the microphone, I guess I will plunge on doggedly and get my 3 minutes in, with your permission.

The mining industry supports S. 1570, both specifically and as a matter of principle. We have often testified here as to the potential for new discovery on America's vast public lands, and we have also deplored on occasion that nearly two-thirds of that public land area is effectively foreclosed to mineral exploration through a great variety of restrictions.

The restricted land includes millions of acres of withdrawn military reservations, much of which is not actively used by the military, we understand. We are deeply concerned that these and other public lands be kept open wherever practical to responsible multiple use management.

Mining by definition can only take place where mineral deposits are found. The Nation as a whole has no free choice in where to mine. The Nation has a choice only as to whether to take the minerals out of the ground or leave them in the ground.

Broad areas are required for initial exploration in order to increase the statistical chance of success and to make the whole process economically feasible. Once individual mineral deposits are delienated, they almost inevitably occupy very small pieces of the Earth's crust.

Mining with appropriate environmental and other controls is almost always the highest and best use society can make for those unique small patches which are found to contain valuable minerals.

The American Mining Congress is committed to fostering a domestic mining industry capable of fulfilling the national requirements and minimizing the political and economic risks which undue dependence of the United States on foreign sources of supply creates.

So we urge, the mining industry, the American Mining Congress urges the committee during its deliberations to carefully consider these issues. We support S. 1570 with its section 2, which provides for limited multiple use.

We could support H.R. 1548, if the mining language of S. 1570 were included in it, which unfortunately it is not. Thank you, sir.

[The prepared statement of Mr. Osborne follows:]

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202/861-2800
TWX 710/822-0136
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John A. Knebel
President

STATEMENT OF

AMERICAN MINING CONGRESS

ON

S. 1570 AND H.R. 1548

CALIFORNIA MILITARY LANDS WITHDRAWAL LEGISATION

BY

T.C. OSBORNE

EXECUTIVE VICE PRESIDENT

ASARCO INCORPORATED

AND

MEMBER, AMC PUBLIC LANDS COMMITTEE

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

UNITED STATE SENATE

MARCH 17, 1988

The American Mining Congress welcomes the opportunity to present its views and comments on S.1570 and H.R.1548, legislation to extend the withdrawal authority for the Chocolate Mountain Aerial Gunnery Range and the China Lake Naval Weapons Center in California. AMC is an industry association that encompasses (1) producers of most of America's metals, coal and industrial and agricultural minerals, (2) manufacturers of mining and mineral processing machinery equipment and supplies, and (3) engineering and consulting firms and financial institutions that serve the mining industry.

All the geologic evidence as well as the history of exploration over the past few decades point to the fact that America's vast public lands continue to have enormous potential for new discovery of valuable mineral deposits. One-third of the nation's land area, approximately 750 million acres, is public land. Nearly two-thirds of this is effectively foreclosed to mineral exploration and development. This includes millions of acres of withdrawn military lands, much of which is not actively used by the military. These lands not in active use may contain valuable stores of minerals and other resources that are the keystone of the nation's economy and essential for production and delivery of our most basic needs--energy, food, water, shelter and manufactured goods. There is no way, without exploring these lands, to determine what minerals they may contain. The mining

industry is therefore deeply concerned that these and other public lands not be foreclosed to mineral exploration and development, but whenever practical be kept open to responsible multiple use management.

Mining can only take place where deposits are found, and we thus have no free choice in where to mine. Our only choice then, is whether to extract the minerals where they occur, or leave them in the ground. Broad areas are required for exploration to increase the statistical chance of success, but once individual mineral deposits are delineated, they almost inevitably occupy only very small patches of the earth's crust. Mining, with appropriate environmental and other controls, is almost always the highest and best use society can make for those unique small patches that are found to contain valuable minerals.

Congress once again recognized the mulitple use principle when in 1986 it enacted Public Law 99-606 to authorize a 15-year withdrawal extension for six western military installations, by including in that legislation provisions for selective opening of five of these areas to exploration and development under the mining and mineral leasing laws (Section 12). These provisions direct the Secretary of Interior to determine, with the concurrence of the military department involved, which public and acquired lands in these military withdrawals are suitable for opening to the operation of the Mining Law of 1872, the Mineral Lands Leasing Act of 1920, the Acquired Lands Leasing Act of 1947, and the Geothermal Steam Act. Notice is to be published in

the Federal Register listing those lands and specifying the opening date.

The Secretary of Interior is also authorized to promulgate regulations to assure "...safe, uninterrupted, and unimpeded use of the lands for military purposes." The regulations are also to contain guidelines to assist mining claimants in determining how much of the surface may be used for the purposes incident to mining. Patents are to convey title to only the locatable minerals with the right to use the surface as necessary for purposes incident to mining. A copy of the language in Section 12 of P.L. 99-606 is attached to this statement.

The mining provision in S.1570 (Section 2) is virtually identical to the mining provision included in the military lands withdrawal legislation that was enacted by the 99th Congress, and for that reason, the American Mining Congress supports S.1570. This provision was included by Senator Wilson after consultation not only with the mining industry, but also with the Bureau of Land Management, and the Department of Navy. H.R.1548 does not contain the mining provision and would continue to shut out the military lands from any form of mineral exploration and development.

In support of the mining provisions of S.1570, we could not phrase it better than Senator Wilson did when he noted in his introductory remarks:

> Although we can't know what is out there.until the miners are given a chance to do their exploration work, we do

know that gold, silver, tungsten and other valuable minerals have been found throughout this section of California. It makes sense to allow these minerals to be extracted if it can be done in such a way as not to impair the military mission of China Lake and Chocolate Mountain.

With respect specifically to the Chocolate Mountain Aerial Gunnery Range not much is known of the economic geology. Except for several small gold mines and some prospecting, this area has not been available to application of modern exploration techniques and geologic concepts that have developed over the past several decades. The available evidence suggests that the southern part of the range is part of a significant gold province and new discoveries are being made in nonsegregrated public lands south of the Range. It is likely that economic deposits of base metals, such as copper, lead, zinc and tungsten could occur in the area, but this cannot be established until it is subjected to detailed study and exploration.

With respect to the China Lake area the Naval Weapons Center and mining are its main sources of income. Some prospecting has taken place around the military reservation, but without detailed study and exploration the mineral potential will remain unknown.

The Bureau of Land Management and Department of Navy had been supportive of exploration and development in selected areas of military reservations where it would not interfere with, or

impede use of, the lands for national defense purposes or present health and safety problems to miners.

Mining access to military lands can promote optimal use of the land under the multiple use principle and at the same time assure that there is no interference with military operations and national defense activities.

In summary, military lands hold significant potential for mineral development. AMC is committed to fostering a domestic mining industry capable of fulfilling national requirements and minimizing the risks undue dependence of the United States on foreign sources of supply would create. We urge the Subcommittee during its deliberations on military land withdrawals to appreciate the need to provide for exploration, identification and development of mineral deposits on military lands within the framework of responsible multiple use management. We support Section 2 of S.1570, which recognizes that need.

SEC. 12. MINING AND MINERAL LEASING.

(a) DETERMINATION OF LANDS SUITABLE FOR OPENING.—As soon as possible after the enactment of this Act and at least every five years thereafter, the Secretary of the Interior shall determine, with the concurrence of the Secretary of the military department concerned, which public and acquired lands (except as provided in this subsection) described in subsections (a), (b), (d), (e), and (f) of section 1 of this Act the Secretary of the Interior considers suitable for opening to the operation of the Mining Law of 1872, the Mineral Lands Leasing Act of 1920, as amended, the Mineral Leasing Act for Acquired Lands of 1947, the Geothermal Steam Act of 1970, or any one or more of such Acts. The Secretary of the Interior shall publish a notice in the Federal Register listing the lands determined suitable pursuant to this section and specifying the opening date, except that lands contained within the Desert National Wildlife Range in Nevada or within the Cabeza Prieta National Wildlife Refuge in Arizona shall not be determined to be suitable for opening pursuant to this section.

(b) OPENING LANDS.—On the day specified by the Secretary of the Interior in a notice published in the Federal Register pursuant to subsection (a), the land identified under subsection (a) as suitable for opening to the operation of one or more of the laws specified in subsection (a) shall automatically be open to the operation of such laws without the necessity for further action by either the Secretary or the Congress.

(c) EXCEPTION FOR COMMON VARIETIES.—No deposit of minerals or materials of the types identified by section 3 of the Act of July 23, 1955 (69 Stat. 367), whether or not included in the term "common varieties" in that Act, shall be subject to location under the Mining Law of 1872 on lands described in section 1.

(d) REGULATIONS.—The Secretary of the Interior, with the advice and concurrence of the Secretary of the military department concerned shall promulgate such regulations to implement this section as may be necessary to assure safe, uninterrupted, and unimpeded use of the lands described in section 1 for military purposes. Such regulations shall also contain guidelines to assist mining claimants in determining how much, if any, of the surface of any lands opened pursuant to this section may be used for purposes incident to mining.

(e) CLOSURE OF MINING LANDS.—In the event of a national emergency or for purposes of national defense or security, the Secretary of the Interior, at the request of the Secretary of the military department concerned, shall close any lands that have been opened to mining or to mineral or geothermal leasing pursuant to this section.

(f) LAWS GOVERNING MINING ON LANDS WITHDRAWN UNDER THIS ACT.—(1) Except as otherwise provided in this Act, mining claims located pursuant to this Act shall be subject to the provisions of the mining laws. In the event of a conflict between those laws and this Act, this Act shall prevail.

(2) All mining claims located under the terms of this Act shall be subject to the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(g) PATENTS.—(1) Patents issued pursuant to this Act for locatable minerals shall convey title to locatable minerals only, together with the right to use so much of the surface as may be necessary for purposes incident to mining under the guidelines for such use established by the Secretary of the Interior by regulation.

(2) All such patents shall contain a reservation to the United States of the surface of all lands patented and of all nonlocatable minerals on those lands.

(3) For the purposes of this section, all minerals subject to location under the Mining Law of 1872 are referred to as "locatable minerals".

(h) REVOCATION.—Notwithstanding any other provision of law, the Secretary of the Interior, if the Secretary determines it necessary and appropriate for the purpose of consummating an exchange of lands or interests therein under applicable law, is hereby authorized and directed to revoke the Small Tract Act Classification S.T.049794 in Clark County, Nevada.

Senator HECHT. Thank you. Come up to Nevada. We have great potential in mining.

Mr. OSBORNE. I recognize that.

Senator HECHT. We are the top State in gold mining right now.

Mr. OSBORNE. Certainly in exploration you are. There is a tremendous amount of active exploration in Nevada, including our own company, which is spending most of its limited U.S. exploration dollars in your State.

Senator HECHT. Where you are working?

Mr. OSBORNE. All over. Some places not with too much success today. But a lot of different places.

I could just simply name, at my high level in the hierarchy I am not exactly sure of the specific projects. And they are probably secret anyway. We in the mining industry are paranoid about where we are working.

It is kind of ridiculous because our competitors all know and we know where they are working. But we do not like to make public statements about it.

Senator HECHT. Around Healy we have a tremendous amount of oil exploration. And none of the oil companies are talking to one another. But at night all the mining engineers get together and drink beer in their motel.

Mr. OSBORNE. The exchange of information at a technical level takes place usually in those establishments.

Senator HECHT. In the bars.

Mr. OSBORNE. In the bars, sir. Yes, sir.

Senator HECHT. And there are other places that it takes place.

Mr. OSBORNE. I was referring to establishments which sell alcoholic liquor.

Senator HECHT. Oh, they sell that too. OK, we got off the subject.

Mr. OSBORNE. I think we have kicked that one around long enough, with due respect.

Senator HECHT. Well, we might get more tourist business there.

Dale Zimmerman.

STATEMENT OF DALE E. ZIMMERMAN, McDADE, WARRAN & ZIMMERMAN, WASHINGTON, DC

Mr. ZIMMERMAN. Thank you, Mr. Chairman. I am not sure that it is a good thing to follow an act like that.

I have had 30 years experience working with the Bureau of Land Management, administering the Federal Mining and Mineral Leasing laws. I retired here a couple of years ago from that, but my interest has continued.

And for 30 years I have been concerned about the extent of the Federal lands that are closed to operation of the mining law and the mineral leasing laws. And I have attached to my testimony a table that shows the extent of lands that are closed and open to the mining law and the Mineral Leasing Act.

But suffice it to say that 42 percent of the lands are closed to mineral leasing, 54 percent is closed to operation of the mining law. And one of the concerns I have had has been especially with the 30 million acres of Federal lands withdrawn for military and naval purposes.

The mineral leasing laws have generally been applicable to military lands. However, leasing is discretionary. And before the Secretary of the Interior can issue a lease, he must get the concurrence of the military authorities. And more often than not, this concurrence is denied.

Presently, on all the military lands, the 30 million acres, about 200,000 acres are under mineral lease. An even more discouraging fact is that until Public Law 99-606 was enacted in October 1986, none of the 30 million acres in these installations was available for mining claim location under the mining law of 1872.

However, that Public Law 99-606 made provision for the selective opening of five of the six military installations embraced in that act.

It allowed for the Secretary of the Interior, with the concurrence of the military departments, to identify lands that could be open to operation of the mining law, the Mineral Leasing Act, the Acquired Lands Leasing Act, and the Geothermal Steam Act.

And the total acreage in these five is 3.6 million acres. It is problematic at this point of how much of that is going to ultimately be determined to be suitable for opening. And I harbor no particular illusions that vast areas of these will in fact be opened.

However, peripheral areas of these installations, which, by design, are essentially buffer zones, are generally free of contamination. And they seem to be the most likely candidates for opening to operation of the Mining Law of 1872. In fact, some installations are totally free of contamination, and they too have promise.

With respect to China Lake, it has been dramatically demonstrated that mineral exploration and development are generally compatible with the military mission; 45,000 acres of the base is presently under geothermal lease.

Those leases contain 21 wells capable of producing in commercial quantities. Four powerplants using geothermal steam are proposed for the China Lake facility, with a generating capacity of 248 megawatts.

I think this amply demonstrates that mineral development and the military mission are compatible. And I noticed that the early witness here for China Lake had difficulty agreeing to mineral leasing, yet geothermal leasing is permitted. It would seem that something like oil and gas leasing would be just as compatible.

The Chocolate Mountain range offers a similar expectation. Mining activities are presently occurring immediately adjacent to the range. And you have heard Courtland Lee here testify as to some of the activity and the promise that this area holds.

I would add my own perception by borrowing a suggestion made by Chairman Bruce Vento at the July 9, 1987 hearing on H.R. 1548.

It was evident at that hearing from testimony elicited from the witness for the U.S. Marine Corps, General Downs, that the Corps was not likely to recommend any lands within Chocolate Mountain range suitable for opening to operation of the mining law.

The chairman then volunteered that maybe the solution was to make an adjustment of the boundary of the withdrawal request to permit exploration of these very promising properties at the extreme southern end of the range and not rewithdraw them.

And I have included in my testimony specifically the lands that we are talking about, which total about 16,000 acres.

It is significant that four sections and two half-sections immediately adjoining the gunnery range presently have a total of 882 mining claims of record. Also immediately adjoining these withdrawn lands is located the Mesquite Mine, which is soon to become the second largest gold producer in the United States, I have been told.

And this, it seems to me, is a solution, and I would urge it. Provided some provision is incorporated into S. 1570 or some sort of a simultaneous opening of the lands.

I totally endorse the provisions that are in section 1 and section 2, and I will not repeat them. And I might just add that section 2, Mr. Chairman, adds an essential provision lacking in Public Law 99-606.

That is, it provides that lands determined to be suitable for opening shall automatically be opened to operation of those laws, subject to an orderly opening procedure. And I certainly support this.

I would urge consideration of the mandatory language to provide for two other minor departures from the Mining Law of 1872 that would make it work more efficiently.

First, I would suggest that all mining claim locations should be approximately square, containing 40 acres, more or less, and should conform to legal subdivisions of the public land surveys or protected surveys, and described by quarter-quarter sections. This feature would eliminate extralateral rights which attach to lode claims.

Second, I would urge that any distinction between lode, placer, tunnel, or millsite claims should be eliminated.

I would finally urge with respect to the orderly opening procedure that the regulations provide for a one-time simultaneous filing period. But to ensure that the intent of Congress is correctly reflected in the regulations, I would urge that some legislative language be added which leaves no doubt as to what the legislative intent would be.

I have attached, by the way, to my statement suggested language to add to sections 2(b) and 2(f). These changes, I feel, are essential for maximizing the lands the military departments might agree to open, for allaying fears and concerns of the military about the uncontrollability of claimants following veins or loads beyond the sidelines of load claims under the extralateral rights principle, and finally for providing an orderly initial opening of the lands rather than the land office rush, which would be incompatible with installation security.

I would add, by the way, I would suggest an addition on page seven, line one, after the words, "mineral leasing," I would add the words, "mining claim location."

And finally, to elaborate or to support what Mr. Lee suggested, I would suggest that we add a possible section 10 to it, perhaps entitled, "Technical Correction of Public Law 99-606," which would add a small letter "c" to that in section 12(a), which in effect would open Goldwater Air Force range, formerly Luke Air Force range.

That concludes my statement.

[The prepared statement of Mr. Zimmerman follows:]

STATEMENT OF DALE E. ZIMMERMAN BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, ON S.1570, A BILL "TO WITHDRAW AND RESERVE FOR THE DEPARTMENT OF THE NAVY CERTAIN FEDERAL LANDS WITHIN INYO, KERN, SAN BERNARDINO, AND IMPERIAL COUNTIES, CALIFORNIA AND FOR OTHER PURPOSES" ON MARCH 17, 1988.

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to present my views and comments on S.1570, the California Military Lands Withdrawal Act. I had 30 years of experience with the Bureau of Land Management in administering the federal mining and mineral leasing laws, including the Geothermal Steam Act. I began my BLM career in 1956 in the Territory of Alaska as a mineral law adjudicator. In 1961, I transferred to the Washington office and held successive positions as Chief, Division of Appeals, Chief of the Mining Law and Onshore and Offshore Mineral Leasing programs, and Assistant to the Deputy Director for Mineral Resources. Upon retirement in 1985 I became a partner in the law firm of McDade, Warran & Zimmerman, which has specialized in federal mining law and mineral leasing law since its establishment 68 years ago. I am also a mining law consultant to the Public Resource Foundation, an independent non-profit foundation, whose projects over the past four years have included an extensive examination of the Mining Law of 1872.

For 30 years I have been concerned about the extent of federal lands closed to operation of the Mining Law of 1872 and the mineral leasing laws. The table attached to this testimony as Attachment A indicates the extent of federal lands closed to

operation of the Mining Law of 1872, the Mineral Lands Leasing Act of 1920, and the Acquired Lands Leasing Act of 1947, as of June 30, 1987. About 42% of the federal lands are closed to mineral leasing, while about 54% of the federal lands are closed to the Mining Law of 1872 and to hardrock mineral leasing where acquired lands are involved.

One such concern has been the nearly 30 million acres of federal lands withdrawn for military and naval purposes, comprised of about 17 million acres of public domain lands and 13 million acres of acquired lands. The mineral leasing laws have generally been applicable to military lands; however, leasing is discretionary and before the Secretary of the Interior can issue leases, he must get the concurrence of the military authorities. Most often this concurrence is denied, despite the national security implications of dependence on foreign oil. The total federal lands within military and naval bases presently under mineral lease, including geothermal leases, approximates 200,000 acres, less than 1% of the 30 million acres of federal lands included in military and naval installations. This is out of a total of 100 million acres presently under federal mineral lease.

Even more discouraging is the fact that, until Public Law 99-606 was enacted in October 1986, none of the 30 million acres of federal lands embraced in military and naval installations was available for mining claim location under the Mining Law of 1872. Public Law 99-606 made provision for selective opening of five of the six military installations embraced by the Act to exploration

and development under the mining and mineral leasing laws. The relevant provision of the Act directs the Secretary of the Interior to determine, with the concurrence of the military department involved, which public and acquired lands in these military installations are suitable for opening to the operation of the Mining Law of 1872, the Mineral Lands Leasing Act of 1920, the Acquired Lands Leasing Act of 1947, and the Geothermal Steam Act of 1970. The total acreage in the five installations, excluding that portion (826,000 acres) of the Desert National Wildlife Refuge (1,588,818 acres) embraced within the Nellis Air Force Range, is over 3.6 million. How much of this acreage will ultimately be determined to be suitable for opening to mineral exploration and development is problematic at this point.

I harbor no illusion that vast areas within these military and naval installations will be opened to operation of the Mining Law of 1872. However, the peripheral areas of these installations, which by design are essentially buffer zones and which are generally free of contamination, are the most likely candidates for opening to operation of the Mining Law of 1872. Likewise, some installations that are free of contamination altogether hold promise for opening to mining claim location.

It is highly probable that at least some of the military and naval installations are underlain with mineral deposits of special interest to national security, as well as the public generally, namely, petroleum and strategic hardrock minerals, of which our country is a net importer. In the case of certain

strategic minerals, we import 100% of our needs because of a lack of a discovery of them anywhere in the United States.

In the case of China Lake, it has been dramatically demonstrated that mineral exploration and development are generally compatible with the military mission. Over 45,000 acres of the 1.1 million acres are presently under geothermal lease. The 30 existing leases contain 21 wells capable of production in commercial quantities. Four power plants using geothermal steam are proposed on the China Lake facility by 1990, capable of generating 248 megawatts of power. The potential power output of China Lake geothermal resources is conservatively estimated at 600 megawatts, enough electrical power output to supply the residential needs of over a half million people.

Obviously, mineral exploration and development are generally compatible with the military mission at China Lake. Chocolate Mountain Aerial Gunnery Range offers a similar expectation. Mining activities are presently occurring immediately adjacent to the Range and have been in existence for many years. Other mineral professional witnesses, including Courtland Lee, presenting testimony on behalf of the Minerals Exploration Coalition, will detail the activity occurring in the vicinity of Chocolate Mountain Aerial Gunnery Range and the promise that area holds. I would add my own perception by borrowing a suggestion made by the Chairman of the House Subcommittee on National Parks and Public Lands, Honorable Bruce Vento. At the July 9, 1987, hearing before Chairman Vento on H.R. 1548, it was evident from

testimony elicited from the witness for the U.S. Marine Corps that the Corps was not likely to recommend to the Navy Department, in any deliberations with the Secretary of the Interior, that any lands within the Chocolate Mountain Aerial Gunnery Range be deemed lands suitable for opening to operation of the Mining Law of 1872. The Chairman then volunteered that maybe the solution was to make an adjustment of the boundary of the withdrawal request to permit exploration of these very promising properties at the extreme southern end of the Range and not rewithdraw them. I would volunteer the following lands for exclusion from the Range. Specifically, these lands are those portions of the South one-third of Townships 12 South, Ranges 18 East and 19 East, and Townships 13 South Ranges 18 East and 19 East, that are presently within the withdrawn area of the Range. The acreage involved are 3,840 in T. 12 S., R. 18 E., 5,120 in T. 12 S., R. 19 E., 6,400 in T. 13 S., R. 18 E., and 640 acres in T. 13 S., R. 19 E., for a total of 16,000 acres. Significantly, in the four sections and two half sections adjoining the lands within the Gunnery Range in T. 13 S., R. 19 E. are a total of 882 mining claims of record with BLM. Immediately adjoining these withdrawn lands is located the Mesquite Mine which is soon to be the second largest gold producer in the United States. This may be the solution and I would urge it, however, some provision should be incorporated into S.1570 to provide for a simultaneous opening of such lands where prior valid existing rights do not

exist. I will give the reason for this proviso in a moment and supply the necessary language in Attachment B hereto.

Section 1 of S.1570 would withdraw the 1,100,000 acre China Lake Naval Weapons Center and the 133,000 acre Chocolate Mountain Aerial Gunnery Range from all forms of appropriation under the public land laws, but not the mineral and geothermal leasing laws and not the mining law to the extent provided in Section 2. I would support this.

Section 2 of S.1570 incorporates key features of Public Law 99-606, which directs the Secretary of the Interior, with the concurrence at the Secretary of the military department concerned, to determine military lands suitable for mineral exploration and development under the Mining Law of 1872 and the Mineral Leasing Act for Acquired Lands of 1947. It allows mining claims located under the provisions of this Act to go to patent, with a reservation to the United States of the surface, but with the right to use so much of the surface as may be necessary for purposes incident to mining. Further, it excludes from location under the Mining Law mineral materials of the types identified by Section 3 of the Surface Resources Act of 1955 (69 Stat. 368), whether or not included in the term "common varieties" in that Act. These mineral materials are sand, stone, gravel, pumice, pumicite and cinders. I would support this.

Section 2 adds an essential provision lacking in Public Law 99-606, namely, it provides that lands determined to be suitable for opening to operation of the Mining Law of 1872 and the

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Mineral Leasing Act for Acquired Lands of 1947 shall automatically be open to operation of those laws, subject to an orderly opening procedure identified in regulations to be promulgated. I would support this.

I would urge consideration of amendatory language to provide for two other minor departures from the Mining Law of 1872 that would make the law work much more efficiently and save the mining claimants and the military department significant amounts of money. First, all mining claim locations should be approximately square, containing 40 acres, more or less, and should conform to the legal subdivisions of the public land surveys or protracted surveys, and described by quarter quarter sections. This feature would eliminate the contentious concept of extralateral rights, which, under existing law, may attach to lode claims, which are staked on the ground 1,500 feet along the vein or lode and 300 feet on either side of the vein or lode. Second, any distinction between lode, placer, tunnel or millsite should be eliminated.

I would urge, with respect to the orderly opening procedure, that the regulations to be promulgated to provide for such opening, utilize a one-time simultaneous filing when the lands are first made available for either leasing under the Mineral Leasing Act for Acquired Lands of 1947 or location under the Mining Law of 1872. To insure that the intent of Congress is correctly reflected in the regulations, I would urge that legislative language be added which leaves no doubt as to how the initial opening of the land is to occur.

I have attached to this statement, as Attachment B, suggested language to add to Sections 2(b) and 2(f) of S.1570. These minor changes are essential for maximizing the lands the respective military departments might agree to open to operation of the Mining Law, for allaying concerns of the military departments about the uncontrollability of claimants following veins or lodes beyond the side lines of lode claims under the extralateral rights principle, and for providing an orderly initial opening of lands rather than a "land office rush," which would not be compatible with installation security. These provisions applicable to locations made under the Mining Law of 1872 would be no different than provisions which have always been applicable to all lease applicants under the Mineral Leasing Act for Acquired Lands of 1947.

I would suggest one correction and an addition to S.1570.

At page 5, line 5, the date should be "1872," not "1982."

At page 7, line 1, add after the words "mineral leasing," the words "mining claim location" to provide for operation of the Mining Law of 1872.

Finally, Mr. Chairman, while I am on the subject of suggested additions to S. 1570, I suggest that consideration be given to adding a Section 10, perhaps entitled Technical Correction of Public Law 99-606, containing the following language: "Section 12(a) of the Military Lands Withdrawal Act of 1986 (Public Law 99-606) is amended by inserting '(c)' to the subsections listed therein." What this amendment would do would

be to also open Barry M. Goldwater Air Force Range, formerly Luke Air Force Range, to mining and mineral leasing on lands therein found suitable for such by the Secretary of the Interior with the concurrence of the military department. I recognize that I am taking a certain degree of license to categorize this as a "technical correction." I wish I could say it was an oversight to have omitted subsection (c) from Public Law 99-606, but such is not the case. It nevertheless should now be taken care of.

Mr. Chairman, that concludes my statement. I would be happy to respond to any questions.

Attachment A

Federal Land Open & Closed to Mineral Exploration and Development
under mineral leasing laws and the General Mining Law of 1872
as of June 30, 1987

	Leasable Minerals	Hardrock Leasable & Locatable Minerals
	(Millions of Acres)	
Acreage formally closed or severely restricted to mining or mineral leasing		
National Park System 1/	72	75
Fish & Wildlife Refuges 2/	89	89
BLM Wilderness Study Areas	29 3/	29 3/ 4/
BLM Designated Wilderness Areas	N*	N*
Military Lands	7 5/	29
Forest Service	44 6/	61 4/ 7/
State of Alaska and Native Selections	37	37
Miscellaneous withdrawals and closures (e.g., segregations resulting from the filing of withdrawal applications, classifications, in-lieu State selections, etc., non-reservation Indian lands, wild and scenic rivers, pipeline corridors, irrigation projects, water supply and control, DOE, TVA, incorporated towns and cities, incompatible surface occupancy)	15	22
Acquired lands held by agencies other than Interior, Agriculture, & Defense 8/		2 9/
Public domain lands not within Mining Law States**		2
National Petroleum Reserve-Alaska		23 10/
Wyoming Overthrust	4 11/	
Withdrawals and classifications "re-instated" by District Court 12/	8	8
Total Acreage Closed	305	377
Acreage open to Mining or mineral leasing		
Surface is non-federally owned, but minerals are owned by Federal Govt.	67 42	
Both the surface and the minerals are federally owned	348 276	
Total Acreage Open	415	318
Total Federal Mineral Base	720	695

* negligible - less than 1/2 million acres.

** States where Mining Law applies: Ariz., Alas., Ark., Calif., Colo., Fla., Ida., La., Miss., Mont., Neb., Nev., N.M., N.D., Oreg., S.D., Utah., Wash., Wyo.

1/ Units of the National Park System are closed by various laws to operation of the 1872 Mining Law and are also closed to mineral leasing by Section 1 of the Mineral Lands Leasing Act of 1920 and Section 3 of the Mineral Leasing Act for Acquired Lands. Five National Recreation Areas (2,955,440 acres) are open to mineral leasing subject to Secretarial discretion. Chelan Lake NRA closed by Secretarial decision.

2/ All Refuges, not subject to drainage of oil and gas, are closed by Title 43 CFR 3101.5-1. However, Refuges in Alaska (76 million acres) except Arctic Wildlife Refuge (18 million acres) and except 19 million acres in designated wilderness areas are open to oil and gas leasing by Alaska National Interest Lands Conservation Act, subject to completion of Sec. 304(g) ANILCA Comprehensive Conservation plan. Title 43 CFR 3101.5-3.

3/ BLM Wilderness Study Areas (23 million acres) are closed to mineral leasing pursuant to Continuing Resolution of 1987, P.L. 99-500 and P.L. 99-591, section 101(h), the DOI and related agencies Appropriations Act, 1987. Central Arctic Management Area (4.5 million acres) closed to leasing until completion of study per Section 1001 Alaska National Interest Lands Conservation Act. Lands in split estates, lands contiguous to other wilderness, and areas less than 5,000 acres (1.5 million acres) closed to leasing and mining claim location due to being in litigation.

4/ BLM Wilderness Study Areas (29 million acres), and Forest Service RARE II Further Planning Areas (21 million acres), though not formally withdrawn, are effectively closed to locatable mineral entry by the nonimpairment provisions of Section 603 of FLPMA and the Wilderness Act of 1964.

5/ Military lands generally are not formally withdrawn from mineral leasing; however, any leasing requires concurrence by the base commander. Ft. Chafee, Ark. and Eglin AFB, Fla. moritoria on oil and gas leasing per 4-24-85, Hodel letters to Udall and Bumpers.

6/ 36.7 million acres closed to mineral leasing by Continuing Resolution of 1987, P.L. 99-500 and P.L. 99-591, sec. 101(h), DOI and related agencies Appropriations Act, 1987.

7/ Includes 31 million acres in 19 Mining Law states closed to the mining laws January 1, 1984, by the Wilderness Act of 1964 (78 Stat. 890), which prohibits operation of the mining laws in designated wilderness.

8/ Acquired lands = 59.8 million acres less 28.6 million acres under the Department of Agriculture and 15.6 million acres under the Department of Interior which are open to hardrock leasing, leaving 15.6 million acres not available for hardrock leasing due to lack of statutory authority.

9/ An additional 13.5 million acres under Department of Defense likewise not open to hardrock leasing due to lack of statutory authority, however, this acreage has already been counted in this table under "military lands."

10/ NPR-A closed to all locatable and leasable (except oil and gas) actions by Naval Reserves Production Act of 1976.

11/ Closed by Secretary Hodel in letter to Bumpers dated 4-24-85. Legal description of area included in H.R. 4826 (99th Congress), the Onshore Competitive Oil and Gas Leasing Amendments of 1986.

12/ District Court Order granting preliminary injunction in National Wildlife Federation v. Burford, effective February 15, 1986, suspending all revocations of withdrawals (7,971,116 acres) and terminations of classifications (96,030 acres) accomplished since 1-1-81. The acres represent those opened to operation of the Mineral Leasing Act of 1920 and the Mining Law of 1872. The total acres revoked was 19,957,607 and the total acres terminated was 160,833,438.

Attachment B

Add to Subsection (b) of Section 2:

"More specifically, upon the initial opening of lands under this Act, including any opening resulting from the review provided in subsection (a) of this Act, the Bureau of Land Management shall accept sealed applications for tracts described by aliquot parts of legal subdivisions that conform with the United States government system of public land surveys or protracted surveys, for a period of one calendar month. All applications received during the calendar month shall be considered as simultaneously filed."

Add to Subsection (f) of Section 2:

"(3) All mining claims located under the terms of this Act shall conform as near as practicable to the United States government system of public land surveys and the rectangular subdivisions of such surveys or protracted surveys. Except where necessary to conform to the subdivision of such surveys, the configuration of each claim shall be a square containing forty (40) acres, and each claim shall include all available land within its described boundaries. For purposes of this Act, extralateral rights and distinctions among locations as placer, lode, tunnel site and millsite, are eliminated.

Senator HECHT. Thank you very much. My staff, who always takes good care of me, wanted me to mention for the record that Public Law 99-606, allowing mining on military bases, which you mentioned, is the one that I put into the law. It addresses Bravo 20 and Nellis range.

Let me just ask if there are any questions that have been submitted to us? Any staff questions?

I thank all of you for coming. We are adjourned.

[Whereupon, at 2:50 p.m., the hearing was adjourned.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

BEVERLY B. BYRON
6th District, Maryland

ARMED SERVICES

CHAIRMAN
SUBCOMMITTEE ON MILITARY PERSONNEL AND COMPENSATION

INTERIOR AND INSULAR AFFAIRS

SELECT COMMITTEE ON AGING

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

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WESTMINSTER
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(301) 848-5386
857-1348

March 16, 1988

The Honorable Dale Bumpers
Chairman
Subcommittee on Public Lands,
National Parks and Forests
Senate Dirksen 308
Washington, D.C. 20510

Dear Chairman Bumpers:

It is my understanding that California military land withdrawal legislation will be addressed in a hearing of your Subcommittee this week. As the sponsor of H.R. 1548, one of the bills which you will be considering, I would like to take this opportunity to voice my interest in this subject.

H.R. 1548, and S. 1570, the Senate companion introduced by Senator Wilson, would withdraw certain lands in California from public land laws for military purposes. As you know, these lands are within both Chocolate Mountain Aerial Gunnery Range and China Lake Weapons Center.

As you may recall, an omnibus military land withdrawal bill (PL 99-606), which allowed for the rewithdrawal of six military ranges located throughout the western United States, was passed by unanimous consent at the close of the 99th Congress. This measure was the result of much deliberation and compromise and contains what I feel are provisions which are fair to all interested parties.

H.R. 1548 was introduced in the spirit of the compromise achieved in PL 99-606. For example, it is consistent with the provisions of the omnibus bill stipulating a 15 year withdrawal period, a draft environmental impact statement which must be completed no later than twelve years after the law's enactment, and a requirement for on-going decontamination efforts.

Furthermore, as a result of the hearing held by the House Interior Subcommittee on National Parks and Public Lands, H.R. 1548 was amended to include certain lands used by the Navy in connection with the El Centro Air Station. The bill would now permit the Navy's use of certain lands in the El Centro area until 1990, during which time submission and consideration of a formal withdrawal may take place.

I urge your Committee to give favorable consideration to H.R. 1548 as passed by the House. I feel that it not only adequately provides for the needs of the Navy, but it also recognizes other important aspects of proper management of public lands. I look forward to working with you on this matter in the future.

With best wishes,

Sincerely,

BEVERLY B. BYRON
Member of Congress

DUNCAN HUNTER
48TH DISTRICT, CALIFORNIA

COMMITTEE ON ARMED SERVICES
SUBCOMMITTEES
SEAPOWER
RESEARCH AND DEVELOPMENT

SELECT COMMITTEE ON
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1101 AIRPORT ROAD, SUITE G
IMPERIAL, CA 92251
(619) 353-5420

825 IMPERIAL BEACH BOULEVARD
IMPERIAL BEACH, CA 92032
(619) 423-8314

The 100th Congress
U.S. House of Representatives
Washington, DC 20515

March 18, 1988

Honorable Dale Bumpers
Chairman
Senate Subcommittee on Public Lands,
National Parks and Forests
SD-308
Washington, D.C. 20510-6150

Dear Mr. Chairman:

I have enclosed a statement to accompany your consideration of S. 1570 and H.R. 1548, the "California Lands Withdrawal Act of 1987."

As the Representative of the entire Imperial County area, containing a major piece of the Chocolate Mountain Aerial Gunnery Range, I wanted to ask for your assistance with the proposed reconfiguration of the area to be withdrawn. As you are aware, the mining operations in the southern "buffer zone" are of tremendous economic importance to the people of Imperial County.

I appreciate the opportunity to offer my comments on this proposal and respectfully request that my attached statement be included in the official record of these proceedings.

With warm regards.

Sincerely,

Duncan Hunter

Duncan Hunter
Member of Congress

DH/ey

Enclosure

STATEMENT OF THE

HONORABLE DUNCAN HUNTER

ON S. 1570

THE CALIFORNIA MILITARY LANDS WITHDRAWAL ACT

BEFORE THE

SENATE SUBCOMMITTEE ON PUBLIC LANDS,

NATIONAL PARKS AND FORESTS

MARCH 17, 1988

Mr. Chairman, the Senate Subcommittee on Public Lands, National Parks and Forests now has before it H.R. 1548 and S. 1570, the "California Military Lands Withdrawal Act of 1987." These bills, if enacted, would withdraw certain lands within the State of California for continued military purposes.

Section 2(b) of both measures would withdraw public lands located in Imperial County for inclusion within the Chocolate Mountain Aerial Gunnery Range. As you know, California's 45th Congressional District, which I am privileged to represent, includes all of Imperial County.

Imperial County has the highest unemployment rate in California. Only recently has natural resource development in Imperial County led to a significant economic resurgence in terms of more jobs, higher assessed property values and increased tax revenues. Geothermal energy development and new gold mining activity have made significant contributions to the people of Imperial and continue to represent our best future opportunities for growth.

However, as currently drafted, H.R. 1548 and S. 1570 would include within the 132,928 acres withdrawn for the Chocolate Mountain Aerial Gunnery Range approximately 640 acres which are of great importance to the economy of Imperial County and the gold mining operations now underway. These operations, which required nearly a $100 million initial capital investment, employ almost 250 full-time employees and account for more than $6,000,000 in annual wages, of which $1.9 million is paid in Federal and state payroll taxes. In addition, Mr. Chairman, those operations purchase more than $5 million annually in local goods and services.

In order for the economics of these operations to continue for as long as possible, it is imperative that one small tract (T.13S., R.19E., Sec. 5N 1/2 and Sec. 6N 1/2) at the extreme southern edge of the proposed gunnery range be eliminated from the proposed withdrawal and returned to the Department of the Interior for multiple use management, including mineral development. It is important to note that the Marine Corps considers this area to be a small part of a "buffer zone" around the range.

This minor alteration in the boundary -- a boundary which has been in flux and has been periodically adjusted over the past forty years -- requires no major change in the legislation. I would simply request the subtraction of 640 acres from the total acreage under consideration and the concurrent redrawing of the controlling map.

I have discussed this matter with the United States Marine Corps and the Department of the Interior, and neither have any objection to this minor adjustment.

Mr. Chairman, I want to thank you for your kind assistance in this matter and for the opportunity to offer my comments to your Subcommittee.

March 11, 1988

Mr. Edward Hastey
State Director
California State Office
Bureau of Land Management
2800 Cottage Way, Room E-2841
Sacramento, California 95825

Dear Mr. Hastey:

S. 1570 - Wilson
Withdrawal and Reservation or Federal Lands

It was a pleasure meeting with you on March 7, 1988 in Riverside, California to discuss various land management issues. Following up on our conversation, I would like to share with you our concerns with S. 1570 which were conveyed by Messrs. Andrew M. Paredes and Gino Di Fabio of our System Development Division in a March 8, 1988 meeting with Messrs. Robert Nauret and Sean Hagerty of your Sacramento office .

First and foremost, I wish to emphasize that the Los Angeles Department of Water and Power (LADWP) does not object to the basic purpose of the bill, that being the effective continuance of the military withdrawal of the subject lands. However, S. 1570 leaves unclear the management responsibility of lands and resources relative to the Department of Interior (DOI) federal geothermal leases within the China Lake Naval Weapons Center (NWC). Without clarification, the bill can be interpreted as assigning such management to the NWC. Although we do not believe this is the intent of the bill, we strongly feel a need for clarification.

As brief background, in 1981 LADWP successfully bid on three lease parcels at the Coso Known Geothermal Resource Area (Coso) totaling 6,825 acres. The leases are within the NWC. The premise upon which we proceeded to develop our leases was that the Bureau of Land Management (BLM) was the lead National Environmental Policy Act (NEPA) agency and the NWC was the "surface manager".

Our basic concern at Coso is that NWC's role as "surface manager" has been so loosely defined that it has allowed the NWC's assumption of authority beyond what was intended in our lease agreement with BLM. After several years of trying to satisfy both BLM and NWC requirements, we found the existing lead agency/surface manager situation to be inefficient in getting the geothermal leases developed, despite the well-intended efforts of BLM staff.

We believe there is clearly a need to better define the administrative and management roles of DLM and NWC regarding the federal geothermal leases within the NWC. This would be in everyone's best interest. To accomplish this, we are proposing the enclosed amendments to S. 1570. We feel the language assures that BLM will rightfully retain the lead administrative authority for the leases while, at the same time, reserves NWC's right to review and condition all authorizations as related to NWC's military mission.

It is important to note that there are very fundamental and intrinsic reasons why BLM should retain this administrative and managerial lead authority:

1. Lease Agreement. LADWP's lease agreements are with BLM, not NWC. From a legal perspective, we are responsible to BLM for fulfilling the terms and conditions of our lease. The NWC is not mentioned nor is it a signatory in the lease.

2. Definition of Responsibility. BLM is the lead agency, as defined by the NEPA and as such, should be the authorizing agency. Any NWC requirements of the lessees should be coordinated through the BLM.

3. Efficiency. It is natural that the lessor, BLM, as a multi-land use management agency, is better able to administer and manage these leases than the NWC. BLM has developed specific guidelines for licensing geothermal development at Coso. The NWC has no such guidelines.

4. Conflict of Interest. Directly adjacent to LADWP's leases is a separate NWC geothermal project on NWC-acquired lands. Because the NWC project may be utilizing portions of the same geothermal resource under LADWP leases, a potential conflict of interest would exist should the lead management responsibility for our leases be reassigned to NWC.

As you are aware, the Senate Public Lands, National Parks and Forest Subcommittee on Energy and Natural Resources has scheduled a hearing on S. 1570 on March 17, 1988 in Washington, D.C. I would appreciate your review and comment on our proposal by March 14, 1988, and would hope that BLM would find the amendments to be beneficial.

Please feel free to call me at (213) 481-8676 or have your staff call Mr. Andrew M. Paredes at (213) 481-3233 if you need additional information.

Sincerely,

ORIGINAL SIGNED BY
WESLEY W. PEPPER
by HSS
WESLEY W. PEPPER
Coso Geothermal Project Manager

Enclosure

cc: Mr. Robert Nauret
California State Office
Bureau of Land Management

Mr. Sean Hagerty
California State Office
Bureau of Land Management

Mr. Doug Koza
California State Office
Bureau of Land Management

Mr. Andrew M. Paredes
Mr. Gino DiFabio

DRAFT

Los Angeles Department of Water and Power
Proposed Amendments to S. 1570

Sec. 3. The responsibilities for the Management of the natural resources of the lands withdrawn by the Act are established as follows:

(a) Except as provided in subsection (b) of this section, the Secretary of the Interior shall manage the lands and their resources, to the extent possible in accordance with the provisions of the Federal Land Policy Management Act of 1976 (90 Stat. 2743, as amended; 43 U.S.C. 1701 et seq.), and other applicable laws, for uses which may include, but are not limited to, grazing, management of wildlife habitat, mineral leasing, control of predatory animals, and the prevention and suppression of brush and range fires resulting from nonmilitary activities, and shall be responsible for the issuance of all easements, leases, permits, and rights-of-way over the lands withdrawn and reserved by this Act. All such uses, and the issuance of all leases, easements and rights-of-way, shall be secondary to the military use of the lands and shall be authorized only with the concurrence of the Secretary of the Navy.

(b) In recognition of the successful management of the lands and resources of China Lake, by the Department of the Navy since 1943, under a cooperative arrangement with the Department of the Interior, the Secretaries of the Navy and the Interior are authorized to continue such cooperative management practices, with the Secretary of the Interior assigning to the Secretary of the Navy the authority to manage the lands and resources withdrawn and reserved by section 1(a) of this Act, except as provided in subsection (f) of this section, and the authority to issue all easements, nonmineral or nongeothermal leases, permits and rights-of-way on such lands, so long as such actions are consistent with the plan and program required by subsection (d) of this section. Leases, permits and rights-of-way that traverse the perimeter of the lands withdrawn by this Act and are required for activities administered by the Secretary of the Interior shall be issued by the Secretary of the Interior, with the consent of the Secretary of the Navy and subject to such conditions as the Secretary of the Navy may prescribe.

(c) Within five years after the date of enactment of this Act, the Secretary of the Interior in consultation with the Secretary of the Navy shall develop a land use plan and management program in accordance with the provisions of the Federal Land Policy and Management Act for the use and management of Chocolate Mountain.

(d) Within five years after the date of enactment of this Act, the Secretary of the Interior and the Secretary of the Navy shall develop a land use plan and management program for the use and management of China Lake.

DRAFT

(e) The Secretary of the Navy shall prepare and submit to the Secretary of the Interior, on an annual basis, a report on the status of the natural resources of the lands in China Lake.

(f) Neither this Act nor any other provision of law shall be construed to prohibit the Secretary of the Interior from issuing any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands the lands withdrawn under section 1(a) pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) but no such lease shall be issued without the concurrence of the Secretary of the Navy. Upon issuance of such a lease, the Secretary of the Interior shall be responsible for the issuance of all associated permits, rights-of-way, and other authorizations and their administration, including the assessment and documentation of environmental impacts resulting from such development and utilization in accordance with the National Environmental Policy Act. The Secretary of the Navy shall be afforded review of all such permits, rights-of-way, and other authorizations prior to their issuance and may condition them to assure compatibility with the security of personnel, access requirements, coordination of range schedules, and weapons testing consistent with the military mission.

Sec. 4. The responsibilities of the Secretary of the Navy for management of the lands withdrawn and reserved by this Act are established as follows:

(a) The Secretary of the Navy shall have the authority to control the military use of the lands and may authorize use of the lands by the other military departments and agencies of the Department of Defense, as appropriate.

(b) In accordance with the provisions of section 2(b) of this Act, the Secretary of the Navy may manage the lands and resources withdrawn and reserved by this Act for China Lake and may also be responsible for the issuance of all easements, nonmineral or nongeothermal leases, permits, and rights-of-way on such lands.

Note: Recommended language changes are underlined.

Department of Water and Power the City of Los Angeles

TOM BRADLEY
Mayor

Commission
JACK W. LEENEY, *President*
RICK J. CARUSO, *Vice President*
ANGEL M. ECHEVARRIA
CAROL WHEELER
WALTER S. ZELMAN
JUDITH K. DAVISON, *Secretary*

PAUL H. LANE, *General Manager and Chief Engineer*
NORMAN E. NICHOLS, *Assistant General Manager - Power*
DUANE L. GEORGESON, *Assistant General Manager - Water*
NORMAN J. POWERS, *Chief Financial Officer*

March 31, 1988

The Honorable Dale Bumpers
Chairman, Subcommittee on Public Lands,
National Parks and Forests
United States Senate
Washington, D.C. 20510

California Military Withdrawal
(H.R. 1548/S. 1570)

The Los Angeles Department of Water and Power (DWP) respectfully submits written testimony to be included in the record of the subcommittee's Hearings on H.R. 1548 and S. 1570 held on March 17, 1988. We appreciate the committee's consideration of our concerns.

In our statement we request that clarifying language be included in H.R. 1548 and S. 1570 regarding the administration and management of Department of the Interior (DOI) geothermal leases which were issued to DWP and are located within the boundaries of both the China Lake Naval Weapons Center (NWC) and the Coso Known Geothermal Resource Area. Without clarification, the bills would perpetuate an inefficient allocation of management responsibilities between the Bureau of Land Management and NWC relative to these leases.

If you have any questions regarding this testimony please call me at (202) 347-0915.

Sincerely,

Eric P. Bock

Eric P. Bock
Federal Legislative Representative

111 North Hope Street, Los Angeles, California — *Mailing address:* Box 111, Los Angeles 90051
Telephone: (213) 481-4211 *Cable address:* BEWAPOLA

Department of Water and Power the City of Los Angeles

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Mayor

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PAUL H. LANE, General Manager and Chief Engineer
NORMAN E. NICHOLS, Assistant General Manager - Power
DUANE L. GEORGESON, Assistant General Manager - Water
DANIEL W. WATERS, Assistant General Manager - External Affairs
NORMAN J. POWERS, Chief Financial Officer

**Testimony of the
Los Angeles Department of Water and Power
on H.R. 1548 and S. 1570 Before the
Senate Energy and Natural Resources Subcommittee on
Public Lands, National Parks and Forests**

by

**Norman E. Nichols
Assistant General Manager - Power**

March 29, 1988

Mr. Chairman, the Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to submit for the record testimony on H.R. 1548 and S. 1570 regarding the withdrawal of 1.1 million acres of public lands for the China Lake Naval Weapons Center (NWC), located in Inyo County, California.

LADWP is a fully integrated municipal utility with complete generation, transmission, and distribution facilities organized to provide reliable electric service to more than 3.3 million people within the geographical boundaries of the City of Los Angeles.

To provide the proper perspective on our concerns, we would first like to emphasize that LADWP supports the basic purpose of the bills, that being the effective continuance of the military withdrawal of the public lands at NWC. LADWP recognizes the importance of the NWC as a testing range for tactical weapons research and development which is vital to the defense of our great Nation. In no way are we attempting to undermine this important military function.

However, LADWP believes that clarifying language is needed in H.R. 1548 and S. 1570 regarding the administration and management of Department of the Interior (DOI) geothermal leases located within the boundaries of both the NWC and the Coso Known Geothermal Resource Area (Coso). These lands were designated for lease by the Bureau of Land Management (BLM) pursuant to the Geothermal Steam Act of 1970. Without clarification, the bills can be interpreted as assigning management of the geothermal leases to NWC.

111 North Hope Street, Los Angeles, California ☐ Mailing address: Box 111, Los Angeles 90051
Telephone: (213) 481-4211 Cable address: [illegible]

Consistent with the National Energy Policy to reduce dependence on foreign oil, LADWP has been active in the development of alternative energy resources. In 1981, we successfully bid on three DOI geothermal leases at Coso totaling 6,825 acres at a cost of $6.4 million. To date, we have spent approximately an additional $12 million in the exploration and planning for development of the geothermal resource on our leases. Our ultimate goal is to develop a power generation source which will provide up to 400 megawatts of electricity, enough to serve a city of 400,000 people. The electricity generated would replace the equivalent of 4.6 million barrels of imported oil annually.

We are developing our leases with the understanding that BLM is the lead National Environmental Policy Act (NEPA) agency and the NWC is the "surface manager". However, at Coso the NWC's role as "surface manager" has been so loosely interpreted by NWC as to allow their assumption of authority beyond what was intended in our lease agreement with BLM and beyond the concerns of NWC's military mission. After several years of trying to satisfy both BLM and NWC requirements separately, we found the existing NEPA lead agency/surface manager relationship to be inefficient in promoting geothermal development. Clarification of the roles of each agency is essential to effective development of these resources.

We believe, for the fundamental reasons listed below, the bills must clearly define and reaffirm BLM as the lead administrative and management agency for geothermal leases issued at Coso pursuant to the Geothermal Steam Act of 1970.

1. Lease Agreement. LADWP's lease agreements are with BLM, not NWC. From a legal perspective, we are responsible to BLM for fulfilling the terms and conditions of our lease. The NWC is neither mentioned nor is it a signatory to the lease.

2. Definition of Responsibility. BLM is the lead agency, as defined by NEPA, and as such, should be the authorizing agency. Any NWC requirements of the lessees should be coordinated through the BLM.

3. Efficiency. BLM, as a multi-land use management agency, is better able to administer and manage these leases than the NWC. BLM has developed specific guidelines for licensing geothermal development at Coso. The NWC has no such guidelines.

4. Conflict of Interest. Directly adjacent to LADWP's leases is a separate NWC geothermal project on NWC lands. Because the NWC project may be utilizing portions of the same geothermal resource under LADWP leases, a potential conflict of interest would exist should the lead management responsibility for our leases be reassigned to NWC.

In light of the foregoing, we feel compelled to respond to statements made by NWC representatives at the March 17, 1988 Subcommittee hearing regarding this issue. The assertions made

were 1) an existing Memorandum of Understanding (MOU) between BLM and NWC regarding management at Coso was working well, 2) that other lessees at Coso were satisfied with the status quo, and 3) that our proposed clarifying amendments are unnecessary and may impede NWC's control relative to its military mission.

The MOU referred to is specific to DOI geothermal leases at Coso within the boundaries of NWC. It is dated December 6, 1977, was amended July 8, 1980, and was incorporated into an agreement between BLM and NWC dated April 21, 1981. Its intention is to establish the terms and conditions upon which leasing would occur, with specific provisions for protecting the capability of NWC to carry out its military mission. As written, we do not have any objection to the MOU. We believe, however, that it was not the intent of the MOU to provide to NWC ultimate authority over the geothermal leases within NWC. As stated in the MOU, "...jurisdiction over the subsurface and surface of NWC Lands covered by this Memorandum necessary to permit development and exploration of the geothermal resources will be vested in the Secretary of the Interior, subject to such surface use controls and/or constraints as may be stipulated by NWC...." The MOU also contains a "constraints package" which is a list of conditions to ensure that the military mission of NWC is not compromised. Our point of contention is not with the MOU or the "constraints package", but with NWC's assertion of authority beyond the concerns of its military mission and beyond the level of its staff's expertise. Because of this assertion of authority by NWC, LADWP has experienced numerous delays in licensing its geothermal developmental actions. To exemplify this and also to respond to the second point (that other lessees are satisfied with the present situation), we would like to refer to a past instance, described below, which involved not LADWP but another lessee at Coso. Although LADWP cannot speak on behalf of this lessee, we feel that this example demonstrates that the problems we are trying to correct are not limited to us.

Although the authority regarding cultural resources at Coso is clearly referred to in the pre-lease environmental documents and our lease agreement as belonging to the BLM, the NWC has asserted itself as the lead authorizing agency. In fulfillment of this self-appointed lead role, the NWC was responsible for carrying out what is known as the "Section 106" requirements of the National Historic Preservation Act (NHPA). Briefly stated, Section 106 is a consultation process for review and concurrence of archaeological assessments and proposed mitigation measures from the State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation. In a letter to NWC from the California Office of Historic Preservation (OHP) regarding the lessee's proposed development action, the California SHPO criticized NWC's action relative to Section 106 and stated the following:

> "...We would, however, like to express our dissatisfaction with the manner in which Section 106 requirements were fulfilled. The failure to formally submit the archaeological

report, the excessive amount of fieldwork that occurred at initial stages of investigation, and the lack of clarity with regard to the various responsibilities and procedures followed by the agencies in coordinating (or more properly, failing to coordinate), with each other and the OHP bespeaks a serious need to establish a formal agreement between the BLM and the NVWPNCTR regarding these issues...."

Approximately three months prior to the date of this OHP letter, an NWC representative had stated in a meeting to all Coso geothermal developers that "We (NWC) have the total legal responsibility for complying with the National Historic Preservation Act and its attendant regulations". Approximately one month after receiving this letter from the OHP, NWC wrote its own letter to BLM reversing its previous stance and recognizing BLM as the lead agency for NHPA administrative procedures involving geothermal leasing. Although this particular issue was, for the most part, resolved with the development of an MOU specific to cultural resources, we believe from our experience that the potential for similar administrative problems and resulting delays continues to exist in other environmental and technical areas related to our geothermal leases.

The third point made by the NWC representative was that our proposed amendments are unnecessary and suggested they may impede NWC's control relative to its military mission. We believe our proposed amendments, by reaffirming the BLM as the lead authorizing agency for the Coso geothermal leases, are necessary to avoid difficulties resulting from confusion of two federal agencies not knowing who has the lead authority, as the above example clearly illustrates. Regarding NWC control relative to its military mission, please note that our proposed amendments protect the military mission by providing that the Secretary of the Navy shall review and condition all authorizations prior to their issuance by BLM. Furthermore, we believe that our amendments are consistent with the intent of the existing agreement between BLM and NWC regarding management at Coso.

In summary, we believe there is clearly a need to better define the administrative and management roles of BLM and NWC regarding the DOI geothermal leases within the NWC. At this time we are uncertain as to which bill will become the primary legislative vehicle. Therefore, we are proposing the attached amendments to both S. 1570 and H.R. 1548 which will address our concerns. The language assures that BLM will retain the lead administrative authority for the DOI geothermal leases while, at the same time, reserve NWC's right to review and condition all authorizations for consistency with NWC's military mission.

Attachments

Los Angeles Department of Water and Power
Proposed Amendments to S. 1570

Subsection 3(b) is amended to read:

(b) In recognition of the successful management of the lands and resources of China Lake, by the Department of the Navy since 1943, under a cooperative arrangement with the Department of the Interior, the Secretaries of the Navy and the Interior are authorized to continue such cooperative management practices, with the Secretary of the Interior assigning to the Secretary of the Navy the authority to manage the lands and resources withdrawn and reserved by section 1(a) of this Act, except as provided in subsection (f) of this section, and the authority to issue all easements, nonmineral or nongeothermal leases, permits and rights-of-way on such lands, so long as such actions are consistent with the plan and program required by subsection (d) of this section. Leases, permits and rights-of-way that traverse the perimeter of the lands withdrawn by this Act and are required for activities administered by the Secretary of the Interior shall be issued by the Secretary of the Interior, with the consent of the Secretary of the Navy and subject to such conditions as the Secretary of the Navy may prescribe.

Section 3 is amended by adding Subsection 3(f) as follows:.

(f) Neither this Act nor any other provision of law shall be construed to prohibit the Secretary of the Interior from issuing any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands withdrawn under section 1(a) pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) but no such lease may be issued without the prior review by the Secretary of the Navy. Upon issuance of such a lease, the Secretary of the Interior, consistent with its authority under applicable federal laws, shall be responsible for the issuance of associated permits, rights-of-way, and other authorizations and their administration, including the assessment, documentation, and mitigation of environmental impacts resulting from such development and utilization in accordance with the National Environmental Policy Act. The Secretary of the Navy shall be afforded review of such permits, rights-of-way, and other authorizations prior to their issuance and may condition them to assure compatibility with the security or personnel, access requirements, coordination of range schedules, and weapons testing consistent with the military mission.

Subsection 4(b) is amended to read:

(b) In accordance with the provisions of section 2(b) of this Act, the Secretary of the Navy may manage the lands and resources withdrawn and reserved by this Act for China Lake and may also be responsible for the issuance of all easements, nonmineral or nongeothermal leases, permits, and rights-of-way on such lands.

Note: Proposed amendments are underlined.

Los Angeles Department of Water and Power
Proposed Amendments to H.R. 1548

Subsection 4(g)(1) is amended to read:

(g) MANAGEMENT OF CHINA LAKE.--(1) The Secretary of the Interior may, except as provided in subsection 4(g)(5), assign the management responsibility for the lands withdrawn under section 2(a) to the Secretary of the Navy who shall manage such lands, and issue leases, easements, rights-of-way, and other authorizations, in accordance with this Act and cooperative management arrangements between the Secretary of the Interior and the Secretary of the Navy. In the case that the Secretary of the Interior assigns such management responsibility to the Secretary of the Navy before the development of the management plan under subsection (c), the Secretary of the Navy (after consultation with the Secretary of the Interior) shall develop such management plan.

Subsection 4(g)(5) is amended to read:

(5) Neither this Act nor any other provision of law shall be construed to prohibit the Secretary of the Interior from issuing any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands withdrawn under section 2(a) pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) but no such lease ~~shall~~ may be issued without the concurrence of prior review by the Secretary of the Navy. Upon issuance of such a lease, the Secretary of the Interior, consistent with its authority under applicable federal laws, shall be responsible for the issuance of associated permits, rights-of-way, and other authorizations and their administration, including the assessment, documentation and mitigation of environmental impacts resulting from such development and utilization in accordance with the National Environmental Policy Act. The Secretary of the Navy shall be afforded review of such permits, rights-of-way, and other authorizations prior to their issuance and may condition them to assure compatibility with the security of personnel, access requirements, coordination of range schedules, and weapons testing consistent with the military mission.

Note: Proposed amendments are underlined, proposed deletions are shown crossed out.

The Nature Conservancy

March 16, 1988

The Honorable Dale Bumpers
Chairman, Senate Subcommittee on
Public Lands, National Parks and Forests
229 Dirksen SOB
Washington, D.C. 20510

Dear Mr. Chairman:

I am writing to commend you for holding hearings on H.R. 1548, the California Military Land Withdrawal Act of 1987 and to state that The Nature Conservancy strongly supports a provision of this legislation (Section 11 (a)(3)(c)) that would allow certain land exchanges in the Coachella Valley to proceed.

The Nature Conservancy has a long history of cooperative land acquisitions and exchanges with federal agencies to secure protection for endangered and threatened species and ecosystems. One such cooperative venture is the Coachella Valley Preserve -- a 13,000 acre project that protects a significant desert ecosystem and critical habitat for federally listed endangered species including the fringe-toed lizard and the giant kangaroo rat. Both private and public interests have joined in this preservation effort, including local governments, the California Department of Fish and Game, and local developers. On the federal level, the Bureau of Land Management and the Fish and Wildlife Service are full participants.

The Fish and Wildlife Service's participation has been through acquisition funds provided by Congress from the Land and Water Conservation Fund. The Bureau of Land Management is participating through proposed land exchanges. Although some of these exchanges were completed, there were several that remained to be consummated when they were held up by an injunction issued in National Wildlife Federation v. Burford. Protection of these remaining parcels would complete the Coachella Valley project. It was not the intent of the lawsuit to include the Coachella project and the language incorporated in Section 11 (a)(3)(c) is designed to allow these exchanges to proceed.

We strongly endorse this provision of H.R. 1548 and urge the subcommittee to approve this legislation. Thank you very much for your time and consideration.

Sincerely Yours,

Nat Williams
Vice-President, Government Relations

NW/jm

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PACIFIC MINING ASSOCIATION
2051 Pacific Avenue
Norco, CA 91760
(714)371-6493

March 29, 1988

Honorable Dale Bumpers, chairman
Sub-committe on Public Lands, National Parks, and Forests
Senate Energy and Natural Resources Committee
U.S. Senate
Washington, D.C. 20510

Attention: Beth Norcross

RE: S.1570, Testimony of the Pacific Mining Association

Please include this testimony in the official record of the hearings on S.1570, March 17, 1988.

The Pacific Mining Association welcomes the opportunity to submit testimony on S.1570. The Pacific Mining Association, a chapter of the Western Mining Council, represents small miners and prospectors, mostly from the Southern California area.

We support the re-authorization of China Lake Naval Weapons Center and the Chocolate Mountain Aerial Gunnery Range as proposed in S.1570. We also support and highly recommend the provision in S.1570 to have the Secretary of the Interior, in concurrence with the Secretary of the Navy, determine which lands within these areas shall be opened to the operation of the Mining Law of 1872 and to the operation of the Mineral Leasing Act of 1947.

It is the opinion of the Pacific Mining Association that a strong, viable minerals industry is critical to a strong America. It is also our opinion that a strong Defense is critical to a strong America. To achieve both, we feel that it is now time for the two to work together. Providing for

the joint use of these two military installations is a good start. With time, the military will be requesting more land for their use. The minerals industry also will require land for exploration of new sources of minerals.

We feel that the two needs are not mutually exclusive.

In recent years the Navy, at China Lake, has cooperated with the geothermal exploration and development industry. This cooperative relationship has resulted in the development of major geothermal energy plants coming on-line in the past year. It is this type of cooperation that the Pacific Mining Association urges for hardrock mineral exploration.

California currently leads the nation in the value of non-fuel minerals produced. The California Desert comprises a quarter of the area of California yet produces half or slightly more of the mineral resources of the state. It is evident that the California Desert is a highly mineralized area. The southern end of the Chocolate Mountains Aerial Gunnery Range, in particular, has produced mineral resources in the past and is regarded by the mineral exploration community as having high potential for discovery of additional mineral resources.

There are also several highly mineralized areas in the China Lake Naval Weapons Center. It will be in the nation's best interest to selectively open these areas to mineral exploration and development.

We believe that the best method to facilitate the efficient mineral exploration of these areas is to open them to the operation of the Mining Law of 1872. This law allows Americans to enter the Public Lands for the purpose of exploring for mineral deposits, locating mining claims on any deposits found, and development of those mineral deposits. The prospect of discovering a

valuble mineral deposit serves as the incentive for the public to expend time and money in this exploration and development process. It is this self-initiative aspect of the Mining Law of 1872 that makes it so effective.

In summary, the Pacific Mining Association supports S.1570. We especially urge the adoption of the provision to open parts of these two Naval Facilities to the operation of the Mining Law of 1872 and to the Mineral Leasing Act of 1947. We are confident that mineral exploration and the military mission can be served by this dual use of the Public Lands.

We appreciate the opportunity to comment on S.1570 and will be pleased to answer any questions that the committee may have.

Respectfully submitted,

Gregory P. Ouellette, President
Pacific Mining Association

cc. Sub-Committee members
Pete Wilson